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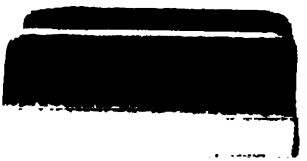

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THEORY AND PRACTICE OF ESTATE ACCOUNTING

.... FOR ....

ACCOUNTANTS, LAWYERS, EXECUTORS, ADMINISTRATORS AND TRUSTEES.

BY

FREDERICK H. RAUGH

EXPERT ACCOUNTANT

and

WILLIAM C. SCHMEISSER, A.B., LL.B.

OF THE BALTIMORE BAR.

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REFERENCES ARE ABBREVIATED AS FOLLOWS:

A Treatise on the Law of Executors and Administrators (3rd Ed., 1900), by James Schouler—(Schouler, Ex.).

A Treatise on the Law of Wills (3rd Ed., 1900), by James Schouler—(Schouler, Wills).

A Trustee's Handbook (3rd Ed., 1907), by Augustus Peabody Loring—(Loring).

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PREFACE.

The object of this book is to give to the estate accountant, under one cover in handy form, first, the general legal principles on which estate accounting is based and secondly, the practical application of these principles.

In our search for such information we have found the legal principles stored away in works of many volumes which are scarcely ever accessible to the accountant, and at times not even to the lawyer himself. As for any authorities which might assist us in making a practical application of these principles, we have located none. To be fair, we have found brethren who have enumerated what pitfalls we might encounter, but the same have not turned a hand to assist us in avoiding them. In short, no one has told us what entries to make and why they should be made.

The reason that no such assistance has been tendered is probably due to the fact that no accountant has deemed himself sufficiently grounded in the legal theory underlying estate accounting to offer any; and on the other hand, surely no lawyer, no matter how thoroughly versed in estate law, would dare to submit to the world of accounting an exposition on estate accounting.

The authors have tried to overcome this difficulty by fusing their individual professional knowledge and research work deductions into one uniform whole. This they have worked out from the point of view of the accountant, because should, besides the accountant, either the lawyer or the personal representative find use for this book, and who else could it be, it will be by the former, with the object of advising the accountant and by the latter when as personal representative he is his own accountant. Hence, we see that in any event the view point to be desired is that of the man who makes the entries.

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As legal references, text books have exclusively been made use of because citation of cases would be of no use to the accountant, and the number of cases which the scope of this work would allow would not be full enough for an attorney who would desire to make an exhaustive study of any given point.

The principal authorities to which we are indebted are:

"A Treatise on the Law of Executors and Administrators" (*3d Ed.* 1900) by James Schouler;

"A Treatise on the Law of Wills" (*3d Ed.* 1900) by James Schouler; and

"A Trustee's Handbook" (*3d Ed.* 1907) by Augustus Peabody Loring.

With these few words of explanation this volume is left with the reader, and may it save him a few hours of work.

THE AUTHORS.

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INTRODUCTION.

PRELIMINARY TOPICS.

Before proceeding with this work along the lines laid out in the preface, it is first necessary to consider what is meant by "Estate Accounting."

1. **Definition of Estate Accounting.** By "estate accounting" is meant the system of accounting used by accountants when keeping a set of books for the purpose of settling up the affairs of a deceased person.

2. **Personal Representatives.** The party selected by the deceased before his death, through the medium of his will, to take charge and settle up his estate is called an executor. If the departed leaves no will the court appoints a person for the same purpose; in which case he is known as an administrator. The general legal term which covers both the terms executor and administrator is that of "personal representative." This term will be used in the discussion of matters which will be applicable either with reference to a representative appointed under the will of the deceased or to one appointed by the courts.

3. **Duties.** It devolves upon the representative to collect all of the assets of the estate and properly administer the same.

4. **Liability.** He must, of course, observe good faith; but in addition to this he must be diligent and prudent in fulfilling the duties of his office. He must use the same care that a good business man would in connection with his own affairs. If he does not he is personally liable for any losses, whether direct or indirect, which may result from his negligence or mismanagement.

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5. **Should an Accountant be Employed?** It is not always necessary (because of the simplicity of the work ahead of him) for a personal representative to call in an accountant; but ordinarily when appointed to take charge of the affairs of a man of means, whose interests were of many different kinds, he will quickly find himself at sea; or he will let things drag along until the day of reckoning comes in the shape of accounts to the court, when he will be compelled to call in an accountant to unravel the mysteries which will have collected about him.

It is far better for the personal representative to start right in on his work with a good accountant at his command and have his entries made properly as the transactions occur. The court before which the personal representative has qualified will only be too glad to allow him the services of an accountant and order his salary to be charged to the estate of the deceased.

6. **Legal Knowledge is Essential to Accountant.** On starting in to keep a set of estate books the accountant, who has only kept commercial ones, will find that he has many new things to learn. The attorney for the estate, to whom the accountant will naturally be compelled to turn for information, may tell him, in what he himself may consider simple language, the proper thing to do, but his advice will mean very little to the accountant if he is not familiar with the a b c of legal terms. Either he will not understand why a certain thing ought to be, or what is still worse, he will think he understands and make erroneous entries. In short, to be an accurate estate acountant you must acquaint yourself with the primary legal principles on which your accounts are based.

7. **Estate Accounting Differs from Commercial Accounting.** In estate accounting a man has not the free hand that one has in keeping a set of commercial books. If the deceased has died without a will, then it is imperative for the accountant to be acquainted with the general rules and principles of law as laid down by the statutes

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of the State. On the other hand, should the deceased have left a will, then the books of the accountant are governed entirely by the provisions of the will so far as the same do not conflict with the laws of the State of domicile of the deceased. The intentions of the testator must at all times be plainly and accurately shown in the estate books, and also in the reports made from time to time by the personal representatives to the court in which they have qualified.

Now, if the accountant follows closely the provisions of the will he will not have much trouble from that quarter; but when he turns to apply the elementary principles of estate accounting, as controlled by the statute law of the State, to any combination of facts, as it may occur, he will generally find it necessary to call on the attorney for the estate to assist him in applying these principles. As many of these questions have come up so often before the courts, a rule has been laid down to govern cases of a similar or identical combination of facts when the same occur. Hence, when the accountant has kept one set of estate books he will be familiar with these general rules of estate accounting, and will in future be compelled to call on the attorney only when questions which are somewhat out of the ordinary occur. Thus we see from the above that when the accountant has acquainted himself with the ordinary legal terms, and knows the elementary principles on which a set of estate books should be kept, he becomes a valuable man to the personal representative, who often knows very little about estate accounting. Moreover, if an attorney has taught a man enough of testamentary law to keep a set of books properly he will generally call him in to help him in preference to some accountant who has never kept books of this character. Again, an experienced estate accountant can often be of great service to a young lawyer who has only recently been admitted to the bar.

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Books Used in Estate Accounting.

In this introduction we think it well to give a general idea of the books used in estate accounting and the use made of them. They are as follows:

8. **Petty Cash-book.** This book should contain the details of all petty disbursements. Each disbursement should be substantiated as far as possible by a voucher, and at the end of the month attached to one "expense" voucher. Thus the total petty expenses for the month, instead of the details, can be entered in the general cash-book.

9. **General Cash-book.** This book is kept on the same principle as all cash-books, except for slight modifications made necessary to meet the requirements of executors acting also as testamentary trustees. This situation, and the treatment of the cash under such circumstances, is fully described in the article "Separation of Executors' and Trustees' Cash." (Sec. 230.)

10. **The Journal.** The ordinary journal is sufficient to meet all demands. It is a very good plan, however, before making any entries in this book, to copy into it first the will of the decedent, and then the inventory as rendered to the Probate Court. These two important records, or the latter alone in the absence of the former, comprise the basis of all estate accounting.

11. **Detail, or Subsidiary Books.** "Controlling Accounts" are those accounts in the general ledger which are free of detail. The detail should be kept in a subsidiary book and always be in balance with the controlling account in the general ledger. In accounting for large estates it will be found far more convenient to keep as controlling accounts in the general ledger such accounts as Estate Investments a/c and like accounts, which involve too much detail to be recorded through the ledger in a manner which would admit of quick or intelligent reference.

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Small, inexpensive books, say 8x7 inches, with only horizontal ruling, are the best books in which to keep the details of these "Controlling Accounts." Any vertical ruling for the dollar and cent column, etc., can easily be put in by hand if needed. These books should be balanced periodically with their respective controlling accounts in the general ledger. The benefits derived from this method cannot be overestimated, for you cannot record in the ledger and at the same time present an intelligent source of information or reference in regard to securities, etc. Hence, while at first glance the plan may seem a useless one, it is, as a matter of fact, a great convenience and time-saver.

12. **The Ledger.** The ledger, while not a book of original entry, is a most important one, for in order to present the detail matter of an estate in an intelligent manner much depends upon the method of keeping and the arrangement of the accounts in this book.

13. **Bank-books.** All cash received by the personal representative should be deposited, and all deposits should be made in the name of the estate, and not in that of the representative individually. Then in event of failure the former way, provided the character of the bank be good, relieves the representative of all personal liability. Bank-books should be left at regular intervals with the bank to be balanced.

14. **Check-books.** These should be kept in the ordinary and customary way. (For signing checks, see Sec. 564.)

The posting of receipts to the cash-book should not be made dependent on these check-books. Such posting, for obvious reasons, should be done as and when such receipts are received, especially where checks must be split up and credited to various accounts.

15. **Record of Court Proceedings.** A file should be procured, and, beginning with the copy of the will probated, followed by the inventory rendered to the Probate Court, a copy of each successive proceeding should be put on this file, which is one of the very im-

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portant records of the estate. If copies of court decrees cannot be obtained, memoranda as to the nature of the decrees and the date of the same should be filed.

Probate Practice.

16. **"Estate of a Deceased" Defined.** The introduction to this volume would not be complete without a general survey of the accountant's field of operations, "The Probate Practice." We will preface this survey by defining the phrase "estate of a deceased." By the "estate of a deceased" we mean all of the interest in property, whether real, personal or mixed, which a person has at the time of his death.

17. **Estate at Time of Death.** It is readily understood that when a person dies it can hardly be expected of him to have his affairs in such shape that he owes no one and no one owes him. Again, we can see how impossible for business conditions it would be if every creditor could make a grab, and hold anything he might get his hands on to offset his claim against the deceased. So as to avoid any scramble of this kind on the part of the creditors, a method has grown up and established itself in all civilized countries by which, on the death of a person, his estate is settled under the supervision of the courts.

18. **How Settled in Modern Practice.** Turning to our American practice, in which we are at this time alone interested, we find that when a person dies his estate is set apart to be settled up "under the immediate supervision of local and usually county tribunals invested with appropriate functions, whose fundamental duty it is to exact a settlement according to law; and, moreover, with due respect to the last wishes of the deceased, if such wishes were properly expressed by him during his lifetime while of sound and disposing mind."[1]

[1]Schouler, Ex. sec. 1.

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The main things to be done are these, that the personal assets of the deceased be properly collected and preserved, "and (together with income and profits) duly accounted for; that his just debts and the charges consequent upon his death and the administration of his estate be paid and adjusted, with such discrimination only as the law recognizes in case the assets should prove insufficient; that the immediate necessities of spouse and young children (if there be such surviving) be provided for as the statute may have directed; that the distribution and division of the residue or surplus of the estate be made among such persons and in such proportions as the will of the deceased, if there be one, otherwise the statute of distribution, may have prescribed."[2]

"Where the deceased left what purports to be a will, the solemn establishment of that will and its public authentication require further attention from such tribunals; specific or general legacies must be paid next after the debts, taking their peculiar priorities, and the balance or residuary fund reckoned up and adjusted accordingly, if not already exhausted."

"Whether a last will, entitled to probate, be left or not, the management of the estate must be judicially committed to the person or persons rightfully entitled to represent the deceased; he or they qualifying, by giving bond with or without security, as the case may be, for a faithful performance of the trust, and thereupon receiving letters under the seal and authentication of the court. And this by way of public credentials or a commission, to be respected in all other courts throughout the jurisdiction of the State or country. All this judicial supervision and direction is exercised" in the United States, "by peculiar tribunals, whose jurisdiction and powers are in modern times usually defined, if not created, by local statutes."[3]

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[2]Schouler, Ex. sec. 1.
[3]Schouler, Ex. sec. 1.

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19. **The Probate Courts.** These peculiar local tribunals or courts "thus clothed with primary authority respecting wills and administrations have borne different names and varied as to procedure in many details, in accordance with local codes. In New England and in most of the Western States whose legislation bears the impress of New England ideas, each county has its appropriate court and judge of probate; in New York we find the county Surrogate; in New Jersey an orphans' court or ordinary; in Pennsylvania and various other States an orphans' court; while in some parts of this country, and particularly in the pioneer region, probate functions are still exercised by the general parish or county tribunals. For convenience we shall in this treatise speak of all such tribunals as 'courts of probate' (such being perhaps the most familiar designation), and the law pertaining to this jurisdiction over estates of deceased persons as 'probate law.' All such courts have a judge or surrogate who performs the appropriate judicial duties, and a register who records the wills, letters and accounts for public inspection, and performs other duties corresponding more nearly to those of a clerk of courts. Probate courts and their officers constitute a part of the local judiciary system of each State; yet the functions performed by judge and register are in many respects analagous to those of administrative officers."[4]

20. **Probate Procedure in General.** "These probate tribunals, or substitutes for the English spiritual courts, being of statute creation, their jurisdiction and practice are defined at much length in the several States by legislative enactment. American policy demands that estates of the dead, if not really trivial in character or amount, shall pass through the probate office for the benefit of all parties interested; that, under the scrutiny of the court, they shall be wound up regularly, expeditiously, and economically, by representatives whose credentials of authority are procured from the

[4]Schouler, Ex. sec. 11.

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proper county tribunal, and upon the filing of due security; that wills, whether relating to personal, real, or mixed property, shall be presented for probate as soon after the testator's death as decency permits; that the rights of all persons interested in the dead person's estate, including creditors, legatees, and next of kin, shall be sedulously protected, whether one died testate or intestate; and that, so far as may be convenient, testaments, inventories, the accounts of executors or administrators, and other essential documents showing the condition and course of settlement of each deceased person's estate shall be preserved for inspection in the county probate files, and made matter of public registry; though practically, if the representative be duly qualified, and the will or the fact of intestacy clearly placed on record, the bond of the representative affords security to all concerned that any omission to render an inventory and accounts need not work them an injury if private and family considerations hinder the pursuit of those full formalities."[5]

"As befits an authority which thus pervades the sanctity of a household, crosses the threshold and exposes to public view the chamber of mourning, probate jurisdiction in the United States is exercised with great simplicity of form as well as decorum. Costs and fees are trifling; the mode of procedure is by a simple petition which states the few facts essential to give the court jurisdiction; in various counties the needful blanks may be obtained from the register; and of so informal a nature is the hearing before the judge or surrogate that parties appear often without legal counsel, the usual aspect of a probate court-room in the rural counties being that of some executive office where business is summarily disposed of."[6]

[5] Schouler, Ex. sec. 12.
[6] Schouler, Ex. sec. 13.

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CHAPTER I.

WILLS.

The very first thing which may occur during the life of an ordinary individual that may have some bearing on the way his books must be kept after his death, is the fact of his making a will.

21. **Definition.** "A will, in our legal sense, is the solemn disposition of one's property, to take effect after death; and in this disposition one fitly contemplates not only the purposes to which such property shall be devoted, but the person or persons by whom those purposes shall be executed, or carried into effect."[1] The phrases "last will," or "last will and testament," are often used in the place of the lone word "will," but they convey the same idea to the legal mind.

22. **Kinds of Wills.** Wills or testaments are of two kinds, written and unwritten, the latter being also designated in law as verbal and nuncupative.

23. **Unwritten Will.** The word nuncupative had a Latin origin, due to the fact that this class of wills first had its place in the Roman civil law. They are so called from "nuncupare," which means to name, declare or make a solemn declaration, because the testator declares his will in his "last sickness." The law supposes, however, such a will to be made only in extreme cases, and under such circumstances as prevented the testator from executing a more formal one. Moreover, the oral will must be made in the presence of a certain number of witnesses and then reduced to writing by such witnesses within a certain time as called for by the laws of each respective State.

[1]Schouler, Wills, sec. 1.

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One will rarely, if ever, meet with such a testament, because owing to historical reasons and the great temptation the oral will offer to fraud and perjury, the tenor of legislation, both English and American, at the present day is to invalidate them altogether except as to soldiers in actual military service and mariners at sea. It is well to note in general that nuncupative wills under our American codes cannot dispose of lands, but of personal property only.[2]

24. **Written Will.** Let us now turn from the unwritten will to the written will and discuss the same in detail. It is important that the accountant should be thoroughly familiar with this document, because on it is based much of his work.

25. **Who Can Make a Will.** The general rule is that any person who is of sound mind and has reached the proper age and is not restrained from using his will power freely may be pronounced capable of making a will in conformity with the prescribed forms of law.[3]

26. **Age.** The age when a person may make a will depends entirely on the local statutes of the State within which the testator resides. Generally it will be found that a person is permitted to make a will of personal property at a more immature age than one of real property.

27. **What the Will Itself Should Be.** Having considered the person who can make a will we next come to the will itself. This should be nothing more than a plain statement, in good clear language, of the manner in which the testator desires to have his property disposed of after death. He also generally appoints the parties whom he wishes to take charge of his affairs, stating whether he desires them to furnish bond or not. The testator should not try to provide for too many contingencies, because

[2] Schouler, Wills, secs. 6, 360, 365, 370.

[3] Schouler, Wills, sec. 31.

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then the language of the will may become involved, thus causing lawsuits after his death. Now a person may either write his will in his own hand, or have his attorney write the same. The former, when entirely written, dated and signed by the testator is called a holograph or olograph will. This class of wills dispenses with subscribing witnesses and the usual proof of formal execution, due to the fact that there could be no stronger proof of authenticity and a deliberate purpose than the testator writing his own will.

In most parts of the United States holograph wills, or those written out in the testator's own hand, stand on no privileged footing, but require to be attested like any other testament. "But in a few of the States holograph wills are expressly recognized, following usually the Louisiana civil code on this subject, but in some instances originating in the old English colonial law. The holograph will, under such statutes, dispenses with subscribing witnesses and the usual proof of a formal execution; but these codes require it to be entirely written, dated, and signed by the testator's own hand. This hand writing being proved, the will becomes legally established. The Tennessee and North Carolina codes guard such a will with still greater caution in some respects; the writing must come from unsuspected custody for safekeeping or be found among the testator's valuable papers, in order to be thus privileged."[4]

28. **Drawing Up the Will.** The usual way for a person to do is to have his attorney write his will. Many of the simplest words in the language have had a legal interpretation given them, thus making it very imprudent for a layman to write a will without legal assistance, even though the testator may be perfectly familiar with the manner in which a will should be executed so as to make it a valid document.

[4]Schouler, Wills, sec. 255.

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29. **Materials Used.** The modern statutes generally require a will to be in writing, and the easiest way to strictly comply with this is to put it down on paper with pen and ink. But if the instrument is a filled in, printed or engraved blank it will satisfy the statute and the same will hold true although the entire will were printed, lithographed or engraved, or prepared by the typewriter, hectograph or any similar process. Of course, at present most of the wills are typewritten. With reference to the use of the lead pencil, it may be said that it is generally held that a will written or altered in lead pencil, instead of ink, would be good. However, prudence should keep one from using the same except in extreme cases where one has, in his haste, not the choice of materials; because pencil can be erased without leaving a mark, thus opening the way for fraud.[5]

It is not necessary that a will be written on one sheet of paper. If several sheets of paper are fastened together as one instrument it is sufficient. The custom is to have the will signed and attested on the last page alone, yet it is well to be on the lookout for any local statutes which provide differently.[6]

30. **Language.** As to the language in which a testament may be written, it is well established that any may be used, provided the testator thoroughly understands what the will contains.[7]

31. **Local Statutes Differ.** Before discussing the formal requisites of a will it is important to note that the various American statutes relating to wills are of local and independent origin, and though their strong tendency is to harmonize in general essentials, yet their provisions at times differ on such technical points that one must turn to the statutes of his State for definite information.

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[5]Schouler, Wills, sec. 258.

[6]Schouler, Wills, sec. 284.

[7]Schouler, Wills, sec. 259.

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32. **Signing the Will.** After the attorney has drawn the prospective will, the next thing to be done is to have the document executed so as to make it, in fact, a will. That is, it must be properly signed, sealed and attested. In signing a will, writing out one's full name is doubtless the safest course, as well as the most natural to pursue, "for such compliance best indicates a rational mind, free will and physical power, at the date of execution. But, undoubtedly, the making of his mark or cross by the testator will satisfy the statute; and that too, as various cases rule, notwithstanding he was able to write at the time."[8]

33. **Number of Witneses.** When the testator is about to sign and seal his last will and testament the attorney will call in witnesses sufficient in number to satisfy the requirements of the statute of the State where the same is to be executed. In the majority of the American States two witnesses will suffice. Nevertheless, there are still a number of States which require three, so a prudent attorney will, if possible, always use three witnesses; because he can never tell when the testator may acquire real property in one of the States which require three witnesses. Should the will not comply with the statute where the real property is situated complications would most certainly arise.

After the witnesses are in the room and can see the testator sign, he will then proceed to affix his signature or mark and seal the same. Next the witnesses will ask the testator whether this paper he has just signed is his last will and testament and whether he wishes them to witness the same. If he assents, then the witnesses will attest or witness the same by signing, in turn, their names to the attestation clause which was typewritten on the document when the will was drawn up.

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[8] Schouler, Wills, sec. 303.

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34. **Attestation Clause.** The question, "What is meant by the attestation clause?" naturally presents itself. This is a clause placed on the will, generally below the place left for the signature of the testator. Embodied in it are the requirements for a proper attestation. It reads as follows:

"Signed, sealed, published, pronounced and declared by the above Thomas, Testator, as and for his last will and testament, in the presence of us, the undersigned, who at his request, in his presence and in the presence of each other do hereunto subscribe our names as witnesses."

Now, it is well established that the attestation clause is no essential part of a will; nevertheless the use of one "with full recital of the particulars usual in a careful execution is highly to be commended, both as a guide in pursuing the formalities needful in so solemn a transaction and for the sake, besides, of furnishing presumptive testimony that all has been rightly done when subscribing witnesses are dead, forgetful, or beyond the reach of process." Moreover, the attestation clause is useful as a memorandum to aid the attesting witnesses themselves in recalling the circumstances at the time of probate, besides indicating that whoever directed the execution understood what formalities were needful and saw them pursued.[9]

35. **Custody of Will.** After the will is thus properly executed the testator generally takes the same and puts it in a safe place in his house, office or safe deposit box, where it rests until he is dead; or until such a time when he may see fit to revoke or modify the same. Most States also have a statutory provision by which the testator may seal his will in an envelope and give it to some court official to keep for him until his death, when the latter turns it over to the court. For this service a nominal fee is charged.

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[9]Schouler, Wills, sec. 346.

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36. **Revocation by Act of Testator.** After having executed his will and kept it a while the testator may decide to revoke it entirely, or modify it in some way. This he has a perfect right to do, because the rights under a will do not vest until the death of the testator. Thus he may revoke his will by actually cancelling, destroying or obliterating the will; also by making a later will or codicil inconsistent with the former; also by expressly revoking it by a later will or codicil, or by some other writing.

The prudent testator, however, will destroy his old will after having executed a new one, or having sufficient reason for not doing that he will execute a codicil, setting forth in it clearly the alterations he wishes to be made in his testament.

37. **The Codicil.** "A codicil is in modern practice a sort of postscript to a will, being an exposition of the testator's afterthought." By this is not meant that a codicil is necessarily on the same sheet of paper with the original will, or annexed to it in any way. It may be a separate instrument like any will of later execution. Yet the codicil is part of the will, and the last will and codicil or codicils constitute one testamentary disposition. "Under our modern rules of legislation the codicil or any later testament should be not only expressed in writing but executed with the same solemnity as an original instrument. Hence as codicils are apt at all times to cumber the construction of testamentary intent as well as increase the cost and trouble of probate, a testator of sound and vigorous mind, whose ideas of disposition are simple, will generally do well to destroy the earlier will and make a clean one, as his testamentary intention changes, in preference to tacking amendments one after the other to the instrument first executed."[19]

38. **If Several Wills Are Found.** Should several wills be found at the time of the testator's death, then the one of latest date is in

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[19]Schouler, Wills, sec. 7.

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force and operates, provided the same be signed and attested with all the solemnities of the local statute.[11]

39. **Revocation by Inference of Law.** Now, a will can also be revoked by inference of law. The most striking instance of this is afforded by the marriage of the testator. With reference to this consult the local statutes of each State, as some States revoke the will of a man or woman absolutely by his or her marriage. In others the rule of law still prevails that no revocation of a man's will occurs without subsequent marriage and birth of a child.[12]

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[11] Schouler, Wills, secs. 7, 404.

[12] Schouler, Wills, secs. 424, 425, 426.

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CHAPTER II.

PROCEDURE AFTER DEATH OF TESTATOR.

After a person, who has died, leaving a will, has been properly buried, the attorney of the deceased is called in and the hunt for the will begins. Then, after the will has been found it is proper that the same should be read to the immediate family, so that all may hear and learn his wishes.

40. **Probating the Will.** Now, the will nearly always appoints one or more persons which the deceased wishes to act as his executor or executors. The first thing the executor ought to do is to have the will under which he desires to act admitted to probate. By this is meant to prove a will before an officer or tribunal having jurisdiction to determine the question of its validity. Thus the executor should take the will or any paper or papers that purport to be a will before the proper tribunal to determine whether the deceased has died testate or not. Moreover, let him and anyone else beware of any intentional suppression, secretion or destruction of a dead person's will, as in nearly all the States there are to be found statutes making such an act a criminal offense.[1]

41. **Place of Probate.** This duty is within the peculiar province of the local Probate Court of the last domicile of the deceased, whether it be called Probate, Surrogate, or Orphans' Court. It also devolves upon this court to qualify the proper person who may be entitled to manage and settle the estate and represent the deceased.[2]

[1] Schouler, Ex. secs. 53, 54.
[2] Schouler, Ex. sec. 55.

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42. **Time of Probate.** The time after the testator's death when his will should be probated must depend somewhat upon sound discretion, distance, facility of procuring witnesses, etc.[3]

43. **Citation to Heirs and Next of Kin.** "In most parts of the United States discrimination between wills of real and of personal property is abolished, and by appropriate statute it is expressly provided that no will, whether of real or personal estate, shall be effectual to pass the same, unless it has been duly proved and allowed in the Probate Court; and the probate of a will devising real estate shall be conclusive as to its due execution in like manner as of a will of personal estate. The uniform practice, moreover, of American probate courts is to issue a citation to all heirs, next of kin and parties interested, before any will is admitted in solemn form to probate, whether the testator's estate consists of real or personal property or of both together."[4]

When the executor is ready to probate the will he files the same with the court, or the register of wills by a petition, usually a blank form filled in, in which the petitioner sets forth the facts of the death, and the last domicile of the deceased, and the name and place of residence of the surviving widow or husband, or next of kin, and alleging that the paper or papers presented constitute the last will and testament of the deceased, prays that letters testamentary be issued to him, and his willingness to qualify. Then when the will and petition are filed with the court or register the heirs-at-law, next of kin and all other persons interested in the estate of the deceased are summoned to make their appearance in court on a certain day, either in person or by attorney, and show cause, if they have any, why the will should not be allowed and the petition granted. It is not necessary to summon each person personally in the case of a citation,—simple publication in

[3]Schouler, Ex. sec. 56.
[4]Schouler, Ex. sec. 59.

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a newspaper, which, through its columns, will likely bring the matter to the attention of those interested, will suffice. An additional precaution is to mail to the respective parties a copy of the petition. The general rule of publication in many States is once a week for three successive weeks.[5]

44. **What Must Be Proven.** In due course the day of probate will roll around, and the party who offered the will for probate must be prepared to prove the essentials as set forth by statute. They are generally three things: "(1) That the will was in writing duly signed by the testator, or under his express direction; (2) that the will was attested and subscribed in presence of the testator by the requisite number of competent witnesses; (3) that the testator at the time when such execution took place was of sound and disposing mind. In other words, the essentials of a statute execution must be shown as a fact; and further that the testator was at the time of such execution in suitable testamentary condition."[6] The burden of proof always rests upon the person offering the instrument for probate. It must be remembered that codicils must be similarly proven.[7]

After the Probate Court has thoroughly examined the witnesses, that is, those that are still living, as to the circumstances surrounding the signing of the will, or in other ways satisfied itself as to the instrument's validity, then it decrees that the will is the valid last will and testament of the deceased and issues letters testamentary to the executor or to the co-executors, as the case may be. The original will is then turned over to the register for safe keeping. At the same time a copy is entered upon the records and a certified copy is delivered to the duly qualified executor

[5]Schouler, Ex. secs. 65, 70.
[6]Schouler, Ex. sec. 73.
[7]Schouler, Ex. sec. 73.

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along with his letters. The will and the letters constitute the full credentials of the executor, showing his scope of authority.[8]

45. **Probate Courts Have Exclusive Jurisdiction.** It must be thoroughly understood that the Probate Courts have exclusive jurisdiction over all probate of wills, and that the other courts cannot interfere. Aside from issuing letters testamentary to the executor, the practical result of a probate is to decree the validity of the last will and testament of the deceased; but as to whether the title of certain property is in the decedent or whether he has a right to dispose of the same, or as to the meaning and the construction to be placed on the instrument, the probate decides nothing. The parties interested or at odds must take other steps to settle such controversies. Any other proceedings would, however, be based on the fact of such probate.[9]

46. **Administrator Cum Testamento Annexo.** Now, it sometimes happens that the decedent has omitted to name an executor in his will, or that the executors named are all found dead or incompetent to act when the will is to be presented for probate, or that the executor refuses the trust, or has disappeared, or neglects to appear and qualify as the statute directs. In a case of this kind the court will appoint what is known as an "Administrator *cum testamento annexo*" (with the will annexed); or recognized among the legal fraternity as an administrator c. t. a. By doing so the court grants an administration, while giving the will, as far as possible, its due operation.

Whether there be an executor or not, the will should be presented for probate. If there is no executor to serve under it, then the party who desires to be appointed "administrator *cum testamento annexo*" usually undertakes to prove the will, petitioning

[8]Schouler, Ex. sec. 88.
[9]Schouler, Ex. sec. 89a.

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the court as already explained in the case of the executor, not neglecting, however, to add the special reasons why he claims and is entitled to the appointment. Of course, letters of administration with the will annexed are not granted unless any living executors which are competent have had full opportunity to take or renounce the trust. Any renunciation of this kind should be made in the proper formal way.[10]

The duties of and the method of settling up an estate by the administrator c. t. a. are, in general, those of the executor. He to all intents and purposes has taken the place of the executor, and hence must, like him, follow the instructions laid down in the will of the deceased.[11]

The rule, when uncontrolled by statute, is to grant administration with the will annexed to the claimant having the greatest interest under the will, for which reason the residuary legatee is preferred to mere next of kin.[12] But the local statutes play such an important part in the selection of the proper person that one is referred to them for detail information on this matter.

47. **Personal Representative's Bond.** If no temporary administrator need be appointed (because of the youthfulness of the executor), then the parties appointed by the will should probate the same and proceed to file a bond so as to qualify.

Just at this point we come to an interesting little question. How much must the bond be? In the case of an administrator the bond generally required by statute must be double the amount of the assets. But in the case of the executor the wish of the testator must be considered. Should he make no mention of a bond, then it will also be double the amount of the assets. Should the testator ask that the executor be excused from furnishing a bond, then he

[10]Schouler, Ex. sec. 122.
[11]Schouler, Ex. sec. 123.
[12]Schouler, Ex. sec. 124.

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need usually only furnish a nominal bond. Why, you will ask, need even a nominal bond be furnished when the will specifically says no bond is necessary? The answer is that the taxes in most States must be protected by bond and the executor cannot be released from furnishing a bond to secure these.

After a bonding company or individual agrees to stand security for the representative, and the bond has been approved and filed in the registry, or with the register of wills, as the law directs, then letters testamentary are issued to the executor, the court thus giving him his authority to act.

48. **Newspaper Notice.** Having obtained his letters testamentary, the executor must give notice of the fact, so that all parties who may have claims against the estate of the deceased can come in and file the same against it. The statutes generally provide that this notice must be given a certain number of times in the daily papers. If this has been properly done and any creditor does not file his claim within the time laid down by the law, then he is barred from filing his claim at all. These claims must generally be sworn to by the creditor before the proper court official and then approved by the court, when they are turned over to the executor tc be paid. Should an executor settle up an estate before the time has elapsed within which claims may be filed, he will be liable for the claim. Many of the probate courts of the large cities have matters so arranged now that it is only necessary to pay a certain clerk the fixed fee, and the required newspaper notices will appear the next morning and at proper intervals thereafter, thus saving the executor the trouble of drawing up the notice.

49. **Warrants to Appraise—Appraisers.** The next thing for the executor to do is to get the warrants to appraise the goods, chattels and personal estate of the deceased, and with the aid of appraisers to return to the court an inventory of the same. These appraisers may generally be any persons of discretion (number

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fixed by statute) who are not interested in the estate; but in the larger cities they are generally parties appointed by the Probate Court, who make appraising their regular occupation, thus becoming very proficient as to values.

Before starting in to appraise an estate they must take an oath that they will do the same properly, and on returning the inventory they must certify to the fact that their work has been properly done.

Kinds of Administrators.

50. **Table of Administrators.** Before concluding this chapter, it is well to fix clearly in mind the different meanings of the term administrator. To do this attention is called to the following table:

Intestate (no will).	Testate (with a will).
1. Administrator.	1. Executor.
2.	2. Administrator *durante minore aetate.*
3.	3. Administrator *cum testamento annexo.*
4. Administrator *de bonis non.*	4. Administrator *de bonis non cum testamento annexo.*
5. Administrator *ad colligendum.*	5. Administrator *ad colligendum.*
6. Administrator *pendente lite.*	6. Administrator *pendente lite.*

51. **Original Administrator.** We have first the administrator, or to be more exact the "original administrator," or the party appointed by the court on the death of an intestate. He stands opposed to the original party (executor) appointed by the will.

52. **Administrator Synonymous With Personal Representative.** We also use the word administrator, meaning any official appointed by the court to settle up an estate—in fact, any official appearing in the table above. This meaning is synonymous with the term "personal representative."

53. **Administrator Durante Minore Aetate.** Of course, we can readily see that there is no use for an "administrator *durante*

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minore a estate'' (during minority) in the case of an intestate, as his function is only to take care of matters until the executor appointed by the will has reached the age when he can qualify. In the case of an intestate, the court will always appoint a man who can immediately qualify as administrator.

54. **When No Administrator C. T. A.** Now, since an intestate is a man who has died without a will, it is not hard to understand why we cannot have an "administrator *cum testamento annexo*" in settling up the estate of an intestate.

55. **Administrator De Bonis Non.** The next party we come to in our table is the "administrator *de bonis non*." His functions are to administer personalty not already administered. He finishes the business already commenced. He may be appointed whether there is a will or not. Failing the original office, under a will, "administration *de bonis non cum testamento annexo*" (with the will annexed) is proper. But failing the original office where there is no will, "administration *de bonis non*" is the term. In modern practice, to render any grant *"de bonis non"* valid, the original office must be vacant at the time, through death, resignation or removal of the sole executor or original administrator.

56. **Administrator Ad Colligendum.** The "administrator *ad colligendum*" is appointed for special purposes, generally to collect and preserve perishable goods. He can be used whether there is a will or not.

57. **Administrator Pendente Lite.** The last one in the table is the "administrator *pendente lite*." He is appointed while a suit continues over an alleged will, or the right of appointment. His powers are limited. Generally he can file an inventory, care for assets and pay debts, but there he must stop.

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The executor is now ready to start out with the court's appraisers to see what property the deceased possessed, and return the same to a court in an inventory, appraised and sworn to by the appraisers. It is from this point on that the duties of an executor under a will and those of an administrator are similar. Hence, after tracing the procedure in the case of the deceased dying without a will down to the point where the administrator is ready to start out with the appraisers to take an inventory of the estate, the authors will continue along the common line usually followed by the personal representatives (both administrator and executor) in settling up an estate.

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CHAPTER III.

PROCEDURE AFTER DEATH OF INTESTATE.

In the last chapter was taken up in successive steps the procedure in use where the party deceased left a will. In this one we deal with the estate of an intestate.

58. **Search for Will.** As in the case of a testate, the first thing the family or friends of the deceased will do is to see that he is properly buried. Then, on advice of the family attorney, a thorough search will be made to see whether any will has been left by the deceased. After inquiry and search has been made at every place where he may possibly have placed his will for safekeeping, including the register of wills' office, and nothing has been found, then the relatives must take it for granted that the deceased has left no will.

59. **Sustenance for Family.** If a party has died intestate the question often arises, "What shall his or her immediate family live on while things are being shaped up a little to see how matters stand?" If any provisions, etc., have been left by the deceased these may be made use of by his family. Then, as these will rarely be found to reach far enough, it is the custom for some relative to furnish the necessary monetary assistance for the time being. Should it be impossible to arrange this, and the family be in need of sustenance, then the statutes of most of the States have provided for the contingency by allowing the representatives of the deceased to petition the Probate or Surrogate Courts to allow them to make a monetary advance under bond to the family of the deceased. It is necessary for the representative to satisfy the court, however, that the asets of the estate will certainly exceed the liabilities.

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60. **Letters of Administration.** The next thing to be done if the deceased has died intestate is to take out letters of administration. This is the instrument by which a person is empowered to take charge of the property of an intestate, to collect the assets and pay the debts of the estate.

61. **Where Granted.** The letters of original general administration may be granted upon either of two distinct grounds:

(1) Last domicile or residence.

(2) In case of non-residence, assets within the local jurisdiction of State or country.

As in the case of a will, the primary place for taking out the letters is where the deceased was domiciled or resided at the time of his death.[1]

62. **How to Take Out Letters of Administration.** The method of taking out letters of administration is quite similar to that already described in the case of the executor; but, of course, we have no will to prove. The surviving husband or wife, or next of kin, or creditor—in fact, the proper party who has the right to claim administration under the statute—must apply by petition in writing to the Probate Court asking it to issue unto him the letters. Such a petition, which is generally a blank form filled out by the petitioner, is usually filed with the register in the first instance, whereupon a citation issues, which serves to notify the persons interested in the estate to come into court on a certain day to show reason, if they have any, why these letters should not be issued to the party petitioning for the same. Should anyone put in his appearance on the day set and object to the issuing of the letters to the petitioner, then the court will hear arguments on the part of the contending parties, and then decide who should properly be empowered to settle up the estate. Before the letters are granted, how-

[1]Schouler, Ex. sec. 91.

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ever, the petitioner must make affidavit to the court to the essential facts of death and intestacy of the deceased, to the right or relationship of the claimant, to the value of the estate or the proper service of citation.[2]

63. **Bond.** Moreover, a prerequisite to the grant of administration is a satisfactory bond. It must be generally for about twice the amount of the estate of the deceased, and must be paid for, in some States, by the party selected for the trust; in others it is charged to the estate. After a bonding company or individuals agree to stand security, and the bond has been approved and filed in the registry or the register of wills, as the law directs, then the letters of administration issue to the person appointed, who may proceed forthwith in the execution of his trust, unless an appeal is taken from the Probate Court.[3]

64. **No Action Without Letters.** "In no legal sense can heir, next of kin, or creditor be regarded as the representative of the deceased or successor in title, unless administration has been duly committed. Nor can one portion of the kindred sue another portion in matters pertaining to an intestate's estate, without the medium of an administrator for the court to recognize. Creditors of the deceased intestate who have occasion to press their claims, or to re-open the transactions of his life; parties in interest, too, who may wish to collect a claim or quiet a title on behalf of the estate; these all need administration as a step preliminary to invoking legal process in other courts. A person exclusively entitled to the estate must get such credentials of authority before he can sue others for what belongs to the estate. Distributees cannot obtain their distributive shares, nor ascertain what those shares should be, without such a representative; and it is against sound policy to permit an

[2]Schouler, Ex. sec. 118.
[3]Schouler, Ex. sec. 118.

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action to be sustained upon any promise to settle and pay over the distributive shares without taking out letters. Where, in fact, the next of kin and heirs-at-law have taken possession of the estate of a deceased person and held it for many years, dividing it and exercising other acts of ownership, they may nevertheless be held accountable for the whole property to an administrator regularly appointed afterwards; and a court of equity will not, at their instance, restrain him from recovering the assets in an action at law."[4]

65. **The Administrator—His Duties.** Now, the party to whom the letters of administration have been issued is called an administrator. His duties are to settle up the estate of the deceased in accordance with the law as it stands in the State where he has been appointed. This generally consists in collecting all of the available assets of the deceased, then paying all the claims outstanding against it, and, if there is any surplus left, to distribute the same to the persons entitled to it according to the law. It is important to be remembered that the administrator cannot touch any of the real property that belonged to the deceased, unless the personal assets are insufficient to meet the outstanding liabilities, when enough of the real property can and must be disposed of to pay such claims. Any surplus remaining from such a sale goes to the heirs of the deceased as real property.

66. **Administrator Differs from Executor.** The administrator as such differs from the executor by the fact that the former is appointed by the Probate Court, and must settle up the estate, following the instructions laid down by the statute alone, whereas the executor is appointed by the will of the testator, and must follow strictly the instructions as laid down in that instrument as long as they are legal.

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[4]Schouler, Ex. sec. 120.

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67. **Number of Administrators.** The letters may generally be granted to more than one person by consent of the party first thereunto entitled.

68. **Newspaper Notices—Warrants to Appraise.** Now that letters of administration have been issued to the administrator, it devolves upon him, as explained in the case of the executor, to give notice to creditors by publication in the daily papers at proper intervals. Also, he must get the warrants to appraise authorizing the appraisers to go with him to take an inventory of the estate left by the deceased.

Thus we have traced the proceedings in case of testacy and in case of intestacy down to the point where the personal representatives are about to begin to collect the assets of the deceased so that they may in due course settle up the estate. From this point on the proceeding in both cases is the same with the exception of one great difference, and that is, *that the administrator need only follow the dictates of the law, while the executor must closely follow the provisions of the will so far as they do not conflict with the law of the State.*

To Close the Decedent's Books.

69. **"By Inventory."** Where the words "By Inventory" occur in this particular article they have no reference to the inventory which is rendered to the Probate Court. "By Inventory" is a commercial expression for goods on hand when balancing an account.

70. **"Assets" and "Liabilities."** Most good business men keep a private set of books, for if they did not they would have only a vague knowledge of their financial condition. Of course, where the decedent leaves a small estate it is probable that you will find no books.

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Where the word "Assets" occurs in this article it refers to such assets as the decedent may have carried on his books, and the same applies to the word "Liabilities."

71. **On Taking Charge.** On taking charge the personal representative should notify all banks in which the decedent has deposits of his death. These banks should then not cash any checks drawn by the decedent, and still out. If they come through another bank they are returned through it to the depositor, who will then file his claim against the estate of the deceased. Where the decedent was one of a joint savings bank account the other depositor in joint account with him should not be allowed to withdraw any of the funds, notwithstanding any agreement made between them when depositing the same. Such an agreement can be taken care of later at leisure.

72. **Bank-book and Check-book Balances.** Write up the bank-books from their respective check-books, and see that the bank-book balance agrees with the check-book balance. When these agree, write the cash-book up from the check-book.

Where the decedent entered cash or checks received, but failed to deposit the same in bank, take the check-book and rule out such entries in red ink, but enter these amounts in the cash-book, and account for them when closing the cash-book, as "Cash on Hand."

Should checks or money be found which had been received by the decedent prior to the date of his death, but not entered by him in his books, then find out to what accounts this money should be credited and make entry in the cash-book accordingly, but do not enter in the check-book, as this is "Cash on Hand."

73. **Closing the Cash-book.** Close the cash-book when all entries have been made from the check-books, and for the "Cash on Hand." Let us assume the following to be the balance of the cash-book, as per check-books, and checks and cash on hand:

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First National Bank	$5000 00
Second National Bank	8000 00
Third National Bank	2000 00
Checks and cash on hand received prior to death, but not deposited by the decedent	500 00
Total	$15,500 00

Now open an account in the ledger for each bank, and an account for "Cash on Hand," and post to the debit of these accounts their respective amounts. You are then through with the cash-book, provided you have posted to the ledger all other entries in it.

74. **How to Deposit Cash on Hand.** Do not attempt to deposit the "Cash on Hand" in the decedent's name. Wait until you have qualified as executor or administrator, and then deposit the same in the name of the estate. Nor is it proper for you to defray expenses out of such cash on hand before you have the proper authority for so doing.

75. **Unpaid Checks of Decedent.** Have the banks balance the pass-books. Should the bank, on handing you the bank-book balanced, have treated any of the decedent's checks as void (on account of presentation for payment after death), secure the numbers. For instance, the bank-book when given to the Third National Bank, showed, say, a balance of $5000.00, which agrees with the check-book. Now, on the return of this bank-book balanced by the bank, the bank shows a balance of $5100 to your credit. On investigation you find that checks Nos. 50 and 51 for fifty dollars each, drawn by the testator, or decedent, have not been paid by the bank because presentation was made after death. (Banks usually mark checks on presentation if for any reason they are not good). On looking at stubs for checks Nos. 50 and 51 you find the same to be

Check 50, James Young, bal. due him	$50 00
Check 51, J. Jones, on account	50 00

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Do not attempt to reopen the cash-book, but secure the journal and make the following entry:

Third National Bank	$100 00	
To Checks Void a/c (open an a/c)		$100 00
and then:		
Checks Void a/c	$100 00	
To James Young		$50 00
J. Jones		50 00

giving a full explanation under each entry. Then merely note under the closing lines of the cash-book, "For checks void see journal, folio No....."

The advantage of making two entries as above is that the ledger will give a clear and intelligent statement which one entry would not give. The advantage in journalizing this is that the cash-book may be closed and disposed of at once, instead of awaiting the return of the bank-book from the bank, and also gives a record of the checks made void on account of death.

76. **Unposted Journal Entries.** Next get the journal of the deceased. Should any of the entries in this book be unposted, post them to the ledger.

77. **Preliminary Trial Balance and Closing the Ledger.** At this stage a preliminary (preliminary to closing the ledger) trial balance should be taken from the ledger. If all entries be found correct, or rather if the trial balance agrees, the ledger should be closed in the following manner through the journal.

All such accounts which represent losses (debits always) pass into the Profit and Loss a/c by journal entry. Example as follows:

Profit and Loss a/c	$1450 00	
To Expense a/c		$1000 00
Taxes a/c		400 00
Insurance a/c		50 00

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and all such accounts as represent profits (credits) pass into the Profit and Loss a/c by journal entry. Example as follows:

Interest a/c.....	$2000 00	
Investments a/c (only the profits on the sales).	3000 00	
To Profit and Loss a/c.....		$5000 00

It will, of course, be understood that the accounts should be analyzed to find out whether the debit balance represents losses, or whether the same represents assets. Debits represent either one or the other. Where the debits represent assets, balance the accounts and bring the balances down. Some accounts may contain both losses and assets, as in Investments a/c, the assets being the stocks and bonds on hand, while the losses would be represented by the difference between the purchase and the selling prices of the securities sold. Where the two (assets and losses) occur in one account, pass the loss into Profit and Loss a/c, and bring the balance down, *i. e.*, the asset portion of the account.

The same remarks apply as to credits, which are either profits or liabilities, except that profits and assets (profits are credits, assets debits) are more frequently met with in one account than losses and assets. Liability accounts are generally very easily ascertained, and are not usually found mixed with either profits or losses.

78. **To Close Profit and Loss A/C.** Now then, to close the Profit and Loss a/c in the ledger, pass the balance of the Profit and Loss a/c by journal entry into Capital a/c, or whatever account you find to represent the decedent's capital on his books. For example:

Profit and Loss a/c.....	$3550 00	
To Capital a/c.....		$3550 00

79. **Accounts That Should Be Ruled Off, and How.** All such accounts as Investments a/c (stocks and bonds), Bills and Accounts

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Payable Accounts, Bills and Accounts Receivable Accounts should be ruled off, unless there is only one entry, in which case there would be no necessity for doing so. But when you do so be sure to bring down the balance, if there is any. These balances which you bring down and allow to remain open on the books are assets (always debits) and liabilities (always credits) of the decedent.

As said before, there are, of course, some accounts as Investments a/c where it is necessary to find out what stocks remain unsold, and their value (for this use the decedent's purchase price or last valuation as a basis) would represent the balance to bring down in this particular instance. The difference between the buying price and the selling price of those stocks which have been sold will represent either the net profit or the net loss, and is carried accordingly into the Profit and Loss a/c. For instance, suppose that the Investments a/c in the decedent's ledger shows:

	Dr.	Cr.
Stocks bought	$80,000 00	
Stocks sold		$50,000 00

Only the totals of the debit and credit sides are here given, this being all that is necessary. Now, on analyzing this account we find, say, that the decedent had at his death and in his possession 350 shares of stock worth (on basis of purchase price) $35,000.00. We would then write in red ink on the credit side of the account

By Inventory $35,000 00

at the same time enumerating what stocks, etc., comprise this balance, and then make this journal entry:

Investments a/c	$5000 00	
To Profit and Loss a/c		$5000 00

After this rule off the Investments a/c and bring down the balance of $35,000.00 to the debit of Investments a/c. Example as follows:

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INVESTMENTS ACCOUNT.

1906. Dr.		1906. Cr.	
To 40 U. S. bonds, 3%, due 1950, bought at par.	$40,000 00	By Cash for U. S. bonds (40) sold at 112½....	$45,000 00
To 400 shares ABC Co. preferred 6% stock, at 100.....	40,000 00	By Cash for 50 shares ABC stock sold at 100.	5,000 00
To Profit and Loss a/c, profit on sales of U. S. bonds and 50 shares ABC pfrd. stock.....	5,000 00	By Inventory, 350 shares ABC stock on hand, valued at purchase....	35,000 00
	$85,000 00		$85,000 00
1907.		1907.	
To Balance (or Inventory).....	$35,000 00		

Crediting an account in the ledger "By Inventory," or closing an account "By" or "To Balance," means that you are going to rule the account off and bring down the amount of such inventory or balance. This "Inventory" here has no reference to the Inventory rendered to the Probate Court.

80. **Final Trial Balance.** When the books are closed take a trial balance. On this final trial balance all the debits should represent actual assets, such as debts due the decedent on individual accounts, stocks and bonds, promissory notes, mortgages receivable, etc.

Make a statement of the assets and total the same. Then make a statement of the liabilities (credits) and total them in pencil. Deduct the total of the liabilities from the total of the assets, and the difference will be the worth of the decedent according to his books, and this amount should agree with the balance of the Capital a/c in the ledger.

81. **Illustrations of Preliminary and Final Trial Balances.** The following illustrations show a preliminary trial balance (preliminary to closing the ledger), the passing of the profits and losses into Profit and Loss a/c, the closing of the Profit and Loss a/c, and the final trial balance, which is also a balance sheet in this case:

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PRELIMINARY TRIAL BALANCE.

	Dr.	Cr.
Capital a/c (bal. of previous year)		$50,000 00
Expense a/c	$2,000 00	
Real Estate a/c	15,000 00	
Real Estate Expense a/c	2,000 00	
Interest a/c		1,500 00
Bills Receivable	500 00	
Accounts Payable		200 00
Investments a/c (stocks, etc.)	30,000 00	
Third National Bank (on deposit)	2.150 00	
Cash on hand (in safe)	50 00	
	$51,700 00	$51,700 00

Now then, to close the books, assume that the Investments a/c, on being analyzed, shows that he had at this time on hand unsold stocks to the value of $35,000.00, based on the purchase price. The following entry is now in order to pass the losses into Profit and Loss a/c:

Journal Entry:

Profit and Loss a/c	$4000 00	
To Expense a/c		$2000 00
Real Estate Expense a/c		2000 00

And then pass the profits into Profit and Loss a/c by:

Journal Entry:

Interest a/c	$1500 00	
(Profit) Investments a/c	5000 00	
To Profit and Loss a/c		$6500 00

And then to pass the balance of the Profit and Loss a/c into Capital a/c, make the following:

Journal Entry:

Profit and Loss a/c	$2500 00	
To Capital a/c		$2500 00

Now, then, take a final trial balance.

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FINAL TRIAL BALANCE.

(Assets.)	Dr.
Real Estate a/c	$15,000 00
Bills Receivable a/c	500 00
Investments a/c (on hand)	35,000 00
Third National Bank a/c (on deposit)	2,150 00
Cash on Hand a/c (see a/c in ledger)	50 00
	$52,700 00

(Liabilities.)	Cr.
Accounts Payable a/c	$200 00
Capital a/c (present worth)	52,500 00
	$52,700 00

It will be seen that this is also a statement of assets (debits) and liabilities (credits), or in other words a balance sheet.

All accounts, wherever necessary, should be neatly ruled, and if there is a balance to bring down, don't forget it, because if you do your final trial balance will not come out right.

82. **Special Ledger for Investments Kept by Decedent.** If the decedent has kept a special ledger for his investments, in which he itemized the same (keeping an account for each kind of stock or bond, etc.), then this ledger should be balanced with its controlling account in the general ledger. That is, he may have kept his Investments a/c in the general ledger without showing what stocks were bought or sold, merely posting the cash received or disbursed, but giving in the special ledger each entry in detail. In this event get the special ledger and take off the balances of each account therein, putting debit balances in the debit column and credit balances in the credit column of your trial balance. The difference between these two columns will be found to be the amount standing to the debit of Investments a/c in the general ledger before the closing entries were made on this account.

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83. **Remarks.** It might also be noted that in closing the decedent's books in the manner given in this article, no provision is made for finally transferring all debits and all credits to one account, say Estate of J. Jones a/c, thus closing every account in the ledger. This is done in commercial books, but it is hardly necessary in the case of estates, and, in fact, by leaving the final closing figures open (as per list of assets and liabilities, sec. 81) the books are more easily referred to, and present a far better statistical reference.

The closing of the decedent's books in a proper and accurate manner is important. These books are an index right from the start to all the decedent's affairs, his papers, stocks, etc., and any information with reference to the latter is, of course, very valuable.

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CHAPTER IV.

PERSONAL REPRESENTATIVE'S RELATION TO PROBATE AND EQUITY COURTS.

84. **Duties in the Probate Court.** Before going any further let us sum up in a general way what are, in the Probate Court, the duties of the personal representative of a deceased. After he has qualified he must first return an inventory of the personal assets and then a list of debts of the deceased, and in some States also an inventory of the real estate. Next he must see that the books of the deceased are properly balanced and closed. After this is done he must collect and husband the assets of the estate, and, under proper authority given him by the courts, pay all claims, public or private, against the estate, and then if there is any residue left he must distribute the same to such parties and in such amounts as provided for by law, or to such legatees, be they specific, general or residuary, as the will may name. Should there be any trust estates or minors to which or whom any of the estate is to go, then the representative must see that these funds go into the proper hands and are taken care of until such time when they are to be paid over absolutely.

85. **Duties Subject to Equity Jurisdiction.** It is readily seen that trust estates do not interest the administrator of an intestate, but only of a testate, because it takes a will to make testamentary trusts. The duties of administrator stop after he has distributed the residue of the estate in accordance with the provisions of the law, and he can then ask to be discharged by the Probate Court.

As for the executor, when he has rendered to the Probate Court his account showing a general distribution of the residue of the

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estate in accordance with the will, his duties may or may not be ended. If he has distributed everything and such distribution places the property so distributed beyond his supervision, and there is no more estate to come in or to be administered on, then he has finished his duties and the Probate Court will discharge him. If, however, the will of the deceased creates a trust and makes the executor also his trustee, then the executor has not completed his duties and must qualify as trustee to complete the provisions of the will. These testamentary trusts belong to the jurisdiction of the Equity Courts.

86. **Equity Courts and Their Distinctive Features.** To give a thorough understanding of the distinctive functions and features of a court of equity it would be necessary to trace its historical development. As the scope of this work will not allow this to be done, it will suffice to remember that the Equity Court "has jurisdiction in cases of rights, recognized and protected by the municipal jurisprudence, where a plain, adequate, and complete remedy cannot be had in the courts of common law."[1]

Also that there was a time in English history when the people found that there were certain cases where they could not get justice in the Common Law Courts, and they applied to the King to give them relief. Such cases came so often that the King, not having time to pass upon them all, gradually turned them over to his chancellor or secretary, from whom the equity jurisdiction passed down to our modern Equity Courts. To this day a court of equity cannot exercise jurisdiction when there is an adequate and complete remedy at law.

87. **Trusts Generally.** Now again, in the light of historical reasons, we find that trusts are subject to equity jurisdiction. Let us see what trusts are. A trust is, "technically, an obligation arising

[1] 1 Story, Equity, sec. 33.

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out of a confidence reposed in a person, to whom the legal title to property is conveyed, that he will faithfully apply the property according to the wishes of the creator of the trust."[2]

88. **Testamentary Trusts.** Of course, we are more particularly interested in testamentary trusts and trustees. "In order to carry out special provisions under a will, which look to the preservation of a principal fund for special schemes, such as charity, or so as to pay income only to persons designated, until the happening of some event, or so that the fund may accumulate, and generally where the intent is to postpone the full beneficial vesting of the legacy in the ultimate legatee, trustees are usually designated under a will to hold and manage the fund, apart from executors,"[3] and such parties are known as testamentary trustees. In short, a trustee is "a person holding the legal title to property, under an express or implied agreement to apply it, and the income arising from it, to the use and for the benefit of another person, who is called the *cestui que trust,*" or beneficiary.[4] The person who establishes the trust is called the "donor," "creator," or "founder" of the same.

89. **Courts of Equity Jurisdiction in United States.** Now, in the United States, equity jurisdiction is generally vested in special courts who have only equity jurisdiction, and those generally are the county courts which sit at certain times as a Common Law Court and at others as an Equity Court. In other words, there are two sides of the same court, the proceeding in each is entirely separate and distinct. Then again, some of the States have given their Probate Courts by statute equity jurisdiction.

90. **Testamentary Trustee Must Qualify.** Now, according to the State that the executor is working in, the executor, if he is to be the trustee, must qualify as such by giving bond and getting his

[2]Anderson Dict. of Law, p. 1056.
[3]Schouler, Ex. sec. 472.
[4]Anderson Dict. of Law, p. 1057.

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letters in the Probate Court or the Equity Court, according to which may have jurisdiction over testamentary trusts in his State. The same holds good for any person not executor who may have been appointed under the provisions of the will of the decedent. In some States the premium of the bond must be paid by the trustee out of his commissions, in others it is charged to the estate.

91. **Duties of Testamentary Trustees.** After the testamentary trustee has qualified, like an executor, he must return an inventory and render his accounts from time to time until the termination of the trust. Moreover, he must keep the funds of the estate safely invested, and he can invest them only in such securities as the court has approved as fit and suitable for such purposes. The courts generally have a list of securities any of which the trustee may buy for the estate without first being compelled to petition the court for permission to do so. The trustee, however, cannot dispose of any of the property of the trust, whether securities or other things, without the permission of the court or power of will.

It also devolves upon the trustee to keep the corpus of the estate separated from the income and to pay the beneficiary his proper allotment.

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CHAPTER V.

KINDS OF AND INTERESTS IN PROPERTY.

92. **Property.** It is to be remembered that the personal representatives must take charge of the estate of the deceased. By that we mean take charge of the property of the deceased and return an inventory of the estate to the court. Now, by property we mean everything that the deceased possessed by right of law, and this property is of two kinds—Real and Personal.

93. **Real Property.** Real property or real estate is every interest in land with the exception of leasehold, and that is personal.

94. **Personal Property.** Now, the leasehold interest in land is not the only thing that is personal property, but anything which is movable, any property which may attend a man wherever he goes is personal property. For our purpose "everything that is not real is personal" is a close enough distinction.

95. **Right of Personal Representatives to Administer Real Property.** The right of the personal representative of the deceased to administer real or personal property is very different.

The general rule is that the personal representative has nothing to do with real property. The title to this vests immediately in the heirs-at-law of the deceased. When, however, the assets of the estate of the deceased are insufficient to meet the claims filed against it, then enough of the real estate must be sold by the representative to meet this deficiency, and any sum that may be left in his hands by reason of such sale, after all claims are paid, goes directly to the heirs of the deceased as real property.

Of course, where the deceased has made provision in his will for the disposition of his real property it comes within the jurisdiction

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of the personal representative, and he must follow the instructions as set down in the will.

All the personal property of the deceased is immediately taken charge of by the personal representative and is what comprises his inventory.

96. **Interests in Land.** There are certain interests in land, the names of which are daily on the tongues of the layman, but of which few men, unless they have dealt in property, or are possibly the lucky possessor of a parcel, have a thorough understanding.

Such terms are "ground rents," "leasehold interests" and "99-year leases," or "irredeemable ground rents."

97. **Ground Rents.** When a person owns a piece of ground or land in "fee-simple" (absolutely with no conditions attached) and conveys the same unto some party, reserving unto himself a certain fixed rent payable at certain intervals as a consideration for making such a conveyance, then we have what is known as a "ground rent."

(*a*) *Redeemable Rents.* Such rents are of two kinds, redeemable and irredeemable. The redeemable class, as the name implies, can be redeemed or bought in by the lessee, the party to whom the land was conveyed, at such a sum as is provided for in the original lease. This is usually done by giving a certain rate per centum at which the same is to be redeemed. For instance, A owns ground and rents it to B on a basis of 6 per cent. (or any other rate permissible by law) on its valuation as fixed by A. Now, say A values the land at $5000, then at the rate of 6 per cent. he would lease the ground for $300 per annum.

Generally, in real estate circles the rents are known as 4, 5 or 6 per cent. rents, because given the rent per annum and the rate per cent. it is a small matter to divide the former by the latter and thus get the principal, or the amount at which the land can be redeemed. Please note that the lower the rate per cent. per annum

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is, the higher is the capitalized valuation or price to be paid for its redemption.

(*b*) *Irredeemable Rents.* Irredeemable rents are those which do not give the lessee the privilege to redeem. They are generally drawn up granting a term of 99 years, renewable forever, at the lessee's option, but he cannot look forward to the right of future ownership in fee-simple as the lessee of a redeemable ground rent may. In some of the States the perpetuity of irredeemable leases has been put a stop to by the legislatures enacting statutes under which the lessee has a right to redeem the rent after a certain length of time, generally five, ten or fifteen years, at a certain rate per cent. As a matter of practice the leases are still drawn for 99 years, renewable forever, so that if the lessee finds it desirable to continue the lease he can do so, but on the other hand he has the privilege to redeem the same at any time after a certain time (fixed by statute) has elapsed, upon giving due notice of his intention to redeem.

98. **Leasehold Interests.** Now, when we look at a ground rent from the point of view of the lessee, instead of that of the person owning the reversion, then we have the leasehold interest. The lessee's interest in a ground rent is the leasehold interest. So it readily follows that a 99-year lease is nothing but an irredeemable ground rent as viewed by the lessee. The lessee can sublet his interest in the lease if he desires to do so.

As has been stated above, all leasehold interest in land is personalty, but there are some States which have by statute classed 99-year leases as real estate. So we advise the personal representative to inquire of his legal adviser whether such is the case in his State or not.

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CHAPTER VI.

THE INVENTORY OF THE ESTATE.

99. **Inventories of Personalty and of Realty.** In all States an inventory of the personal assets of the estate of the deceased must be rendered to the Probate Court, and in a great many States also an inventory of the realty left by the decedent. The usual time allowed the executor or the administrator for the filing of these inventories is three months from the date of his qualification. It is, however, well to file the inventory as soon as possible, *i. e.*, as soon as the assets of the deceased have been fully ascertained.

100. **Additional Inventories.** The filing of additional inventories for assets coming into the hands of the personal representative subsequent to the filing of the original inventory is not required by all States, but New York requires this. In the States which do not require such an additional inventory the representative must, however, account for the additional assets in his administration accounts in the same way as for the assets which he originally inventoried.[1]

101. **Inventory as Basis of Estate Accounts.** The inventory of the personal assets of the deceased is the foundation and basis for the probate, as well as the personal representative's accounts. The inventory valuation (if valued in the inventory) of the personalty of the deceased must be used by the executor or administrator in charging himself and crediting the estate. And where he has no appraised value of an asset he should not charge himself with it until he receives the cash for the same. This latter rule refers to

[1] Schouler, Ex. sec. 230.

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assets which are in his possession when the inventory is filed. The words "charge himself," as used above, must not be construed to mean that the executor or administrator charges himself in a personal account with the assets; it means that he charges some particular account, as, for example, Household Chattels a/c, and credits the Estate a/c with a like sum. Thus the personal representative is charged technically with the sum total of such subsidiary accounts which contain the assets, for the assets on his books must be accounted for by him.

102. **Where Title of Assets Is Uncertain.** Assets, where it is doubtful to whom they belong, should be reported on their merits. For example, joint savings bank deposits, stocks and securities found among the decedent's possessions standing in the names of others and the like. As said, return them on their merits and state all the facts in the case.

103. **Income to Date of Appraisement.** It is also proper to include in the inventory the income from, or accretion to the corpus up to the date of appraisement, but this is not customary and may be properly omitted, as such inventory would even then only be an approximate valuation of the estate.[2]

104. **Appraisers' Valuation Is Ordinarily Final.** The valuation which the appraisers set upon the assets is ordinarily final. But in cases of errors the executor or administrator is allowed for them in his accounts, and in some cases inventory valuations are subject to review by the Court of Probate.

105. **Copy of the Inventory.** The copy of the inventory returned to the decedent's representative is a very important document and should be carefully filed. In estate accounting it will be found an excellent plan to keep on a file first a copy of the will and then the inventory in the form as rendered; and after these should follow copies of all court orders and decrees as passed. Moreover, it is

[2]Schouler, Ex. sec. 233.

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not a bad plan to copy in the journal, before any entries have been made in the same, first the will and then the inventory, and after these the regular entries as they occur. The will and the inventory comprise the basis for nearly all of the accounting, and no set of books is really complete without a copy of these documents.

106. **Assets Returned "No Value."** When returning the assets of an estate, if the personal representative should come across a security on which he knows nothing can be realized, the fact of it having no value is no excuse for leaving it out of the inventory. It rightfully belongs to the estate whether of value or not. The appraisers make the valuations, and if the security has no value they will promptly return such asset marked on the inventory as of "no value." Nor does this return release the representative from keeping the same, as it may become valuable later on, and in such an event he would have to account for it. Should the court order him to distribute such an asset, then he would, of course, be released. If such is the case, he should make the proper entry through his books, even though such entry contains no money value, but be sure to set forth this fact in the entry.

107. **A Separate Schedule for Debts.** It is mostly required that debts due the decedent be returned on a separate schedule and classified, to the best of the knowledge and belief of the executor or administrator, into

Sperate debts (good).
Doubtful "
Desperate " (hopeless).

But the personal representative does not, by so classifying the debts, make himself liable. It is the diligence and care with which he collects these debts that determines his liability. The reason for such a classification is to determine as nearly as possible the value of the estate. The court will release the executor or administrator from the charge in the inventory, whether it be

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sperate, doubtful or desperate, if he can show that he has done his best to collect or realize on the same.

108. **Remarks.** We will now take up in detail those classes of things which are usually included in the inventory of the average estate. Of course, it will be impossible to mention here everything that may be returned in an inventory and it must be remembered that anything which belongs to the decedent and is personal property should be returned in the inventory proper. Should a State require an inventory of real property, then, of course, it must also be given, but the schedule of the personal property alone serves as a basis of the personal representative's accounts.

Personal Assets to Be Inventoried.

109. **Household Chattels.** Comprising chairs, beds, tables, rugs, carpets, pictures, portraits, ornaments, mirrors (not fixtures), cabinets, desks, china and glassware, jewelry and silverware, carriages, carriage horses, harness, wagons.

110. **Fixtures as Assets.** With reference to some chattels the question will often arise whether they are so attached to the realty as to become "fixtures" or not; when not so attached and hence not fixtures they must be returned in the inventory of the deceased as personal property. A few words by James Schouler will give a clearer conception of this intricate subject: "Of these mixed things the most important class at the present day is that of 'fixtures; the very word now so common in legal parlance, being of modern origin and variously defined, but, on the whole, signifying chattels annexed in a manner to the ground, concerning which the right to remove comes in controversy. The object and purpose of the annexation must be considered in all cases of fixtures; and the law is more or less liberal, according as it appears that the chattel was affixed for purposes of trade, for purposes of ornament, or for domestic purposes. In order to constitute annexation

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within the rule of fixtures, the article in question must have been let into or united with the land or to substances previously connected with it; for mere juxtaposition, such as laying a pile of lumber on the ground, leaves the lumber mere personal property."[3]

111. **Household Chattels Reserved.** In cases where the appraisers are empowered to reserve for the family certain household articles, these should be included in the inventory, but no appraised value should be placed opposite to them. These articles, therefore, need not be taken into account by the personal representative, because he is not charged with them and hence needs no allowance for them.

112. **Stocks and Bonds.** This sub-division of the inventory should contain bonds, stocks, scrip of corporations, bonds and loan certificates of governments, municipalities, etc., certificates of stock or bond deposit (pending exchange, etc.). It is customary to put the bonds first, and after these the stocks, etc. The inventory should contain the number of the bond or stock, the corporation, etc., issuing, a description of the security, the rate of interest it bears, or the dividend rate, maturity date (in case of bonds), number of the shares (in the case of stocks), and the par value of the security, each bond or security being given a separate line. The appraisers then put down the valuations, and the extensions based thereon constitute the appraised value of these stocks and bonds.

113. **Debts Due the Decedent.** These may be secured or unsecured, and must be classified often, to the best of the knowledge and belief of the executor or administrator, into sperate, doubtful and desperate, which can be done by using three columns on one sheet with such classified headings in the order given.

These debts include open accounts (as per decedent's ledger) commonly called accounts receivable, and which may contain ad-

[3]Schouler, Ex. sec. 227.

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vances to his children confirmed by the will, option debts due him the right to which he had never cancelled, as well as other debts for which no marketable collateral is held, such as unsecured promissory notes. Also a sale of land by the decedent in his lifetime, but which was neither paid for nor conveyed before his death, conveyance of which must be made by the executor or administrator after death, should be returned as a sperate debt due the decedent.

114. **Leasehold Property.** In the case of buildings erected on leased ground, it is customary to inventory the building by citing first a description of the ground, its measurement and where located; then the ground rent payable per annum, and then a description of the improvements thereon, and in the money column the valuation of the same. If the decedent's interest is not a whole interest, state in the beginning the fractional interest which he has in such property, as for example, "A one-third undivided interest in, etc., etc." And if the owner of the building is a sub-lessee of the ground state so, and where stating that the ground is subject to an annual rent substitute "sub-rent" in place of "rent."

115. **Leasehold Interests in Property.** By this is meant those rights which the decedent may have had in property such as a farm or a vacant lot, he having been the lessee of it. The lease in this case is the asset and should be given, as well as the annual rent paid for the use of such land, although a valuation of such a right may or may not be possible. Under this head come 99-year leases, except when they are real estate by reason of statute as they are in some States.

116. **Growing Crops, Trees, etc.** If by any reason these should come into his hands as personalty, he should inventory them on their merits.

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117. **Business Owned by the Decedent.** A separate or special inventory should be returned for the business and made a part of the general inventory.

118. **Trade-marks, Copy and Patent Rights and Contracts.** These should be returned in the inventory as assets, and if less than a whole interest be held, such fractional part or interest should be noted.

119. **Deposit of Cash to Create Permanent Insurance.** Where a fund was deposited by the decedent to create perpetual insurance on his property, such a fund, being subject to withdrawal, should be treated as cash, the terms and object being stated. Some courts, however, treat this as a sperate debt.

120. **Miscellaneous.** Any right or property which passes to the representative as personal assets should be inventoried by him.

Separate Inventory of Realty.

121. **Where Will Disposes of Realty.** In cases where the realty of the testator passes at his death, by virtue of the provisions of his will, to his executor; or to his executor as trustee, where the property is to be sold for the benefit of the estate, it is required by many States that a separate schedule or inventory be filed in the court.

122. **Generally No Appraisment Made of Realty.** Such an inventory differs, however, from the inventory of the personalty in that no appraisement is generally made and the executor only charges himself and credits the estate when a sale is made of the realty.[4]

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[4]Schouler, Ex. sec. 233.

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Illustrations of Inventory Schedules.
Personal Property.

123. **Remarks.** In order to show more clearly the proper way of drawing up an inventory the authors insert the different schedules of an inventory properly filled out. However, we advise the personal representative, when rendering his inventory, to do so under the guidance of his lawyer, or the instruction of the court; for it involves no principle of accounting or accounts, but is a matter of legal requirements, the details of which may vary in different States.

124. **Schedule No. 1.** A true and perfect inventory of all and singular, the goods and chattels and personal estate of..... ..... late of ....., appraised by us, the subscribers, ... and ..... jointly, we having been first legally authorized, and having taken the oath as prescribed by law, as will be seen by the warrants to appraise, and the certificates thereto annexed.

HOUSEHOLD CHATTELS.

Dining-room:

Chairs	$10 00
Tables	25 00
Ornaments	10 00
Pictures	20 00
Rugs and Carpets	15 00
Knives and Forks	8 00
China and Glassware	20 00

Parlor:

Chairs	50 00
Tables	30 00
Piano	100 00
Cabinets	40 00
Rugs	75 00

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Bedroom:

Chairs	15 00
Beds	35 00
Tables	15 00
Cabinet	5 00
Pictures	75 00

Jewelry and Silverware:

Four Solitaire Rings	200 00
One Cameo Pin	25 00

Household Chattels Reserved:

Bed Linen	— —
Towels, Rugs, etc	— —
Knives and Forks	— —
Spoons	— —
Total	$773 00

125. **Schedule No. 2.**

BONDS.

Number of Bond.	Name of Obligor and Description.	Per cent.	Maturity,	Amt. of Bond.	Total.	At	Value.
4300	A. R. Co. 1st Con-	5%	1950	$1000			
4301	solidated Mort-	5%	1950	1000			
4302	gage 50-year	5%	1950	1000			
4303	Gold Bonds....	5%	1950	1000	$4000	75	$3,000 00
4405	Do. do. do.....	4%	1950	500			
4406	Do. do. do.....	4%	1950	500			
4407	Do. do. do.....	4%	1950	500	1500	75	1,125 00
100	Gilt Edge Candy	5%	1910	1000			
101	Co. 2d Mortgage	5%	1910	1000			
102	Bonds, 50-year.	5%	1910	1000	3000	80	2,400 00
3001	Water Power Co.	4%	1920	1000			
3002	20-year Income	4%	1920	100			
3003	Bonds.....	4%	1920	100	1200	60	720 00
1400	U. S. 50-year 4 per	4%	1950	1000			
1401	cent. Bonds....	4%	1950	1000	2000	98	1,960 00
						Total of Bonds,	$9,205 00

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126. Schedule No. 3.

STOCKS.

Certificate.	Name of Corporation.	Per cent.	No. of Shares.	Par Val.	Total.	At.	Value.
550	Seventh Nat'l	6%	40	4,000			
551	Bank Stock.	6%	50	5,000			
552		6%	10	1,000	10,000	150	$15,000 00
25,091	Texas, Mexico & Central Railway Common Stock.....	5%	423	42,300	42,300	20	8,460 00
791	Cuban Plantation Co. Certificate of Scrip.....	...	1	20	20	100	20 00
10,001	West India Banana Co., Ltd., 2d Preferred Stock	5%	500	5,000	5,000	...	No value
25	Certificate of Deposit for 300 Shares Preferred Light & Gas Co. Stock, Deposited under Agreement Dated September 1.	...	300	30,000	30,000	100	30,000 00
						Total of Stocks,	$53,480 00

CASH IN BANKS AND ON HAND.

Seventh National Bank.....	$2,000 00
Tenth National Bank.....	3,000 00
On hand in house.....	20 00
Total of Cash.....	$5,020 00

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127. **Schedule No. 4.**

MORTGAGES.

Mortgage. J. Jones, Mortgagor to decedent, Mortgagee on lot and house N. E. corner W street and A avenue, dated March 31, 1900, due March 31, 1909, with interest 5 per cent. per annum, recorded in Liber PBQ No. —, folio No. —.	$5,000 00

LEASEHOLD PROPERTY.

A certain lot of ground in the city of ———— ————, BEGINNING for the same at the corner formed by the intersection of the northernmost side of E avenue and the east side of A avenue, fronting on the said first mentioned avenue about 20 feet, with a depth of about 120 feet to an alley. Said lot of ground being subject to an annual ground rent of $14.65. Unimproved.....Value.....	$260 00
An undivided one-half interest in a certain lot of ground in the city of ————————, BEGINNING for the same at the southernmost side of B avenue, about 77 feet easterly of L street, fronting on said first-mentioned avenue about 12 feet, with a depth of about 90 feet to an alley. Said lot of ground being subject to an annual ground rent of $10.00. Together with the improvements thereon, being a three-story brick house, with a two-story back building. No. 1 B avenue.....Value.....	400 00
BEGINNING from the third lot on the west side of W avenue, sub-leased from A. A. J. to R. P. D. (the decedent), extending southerly on W avenue about 25 feet to the wall of the house formerly occupied by J. J. A., with a depth westerly to C avenue of about 85 feet. Subject to an annual sub-rent of $46.72. Together with the improvements thereon, being a three-story store and dwelling, and a one-story brick stable, known as ————. No. 5 W avenue.....Value.....	4,000 00
Total of Leasehold.....	$4,660 00

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Recapitulation:

Bonds	$9,205 00
Stocks	53,480 00
Cash	5,020 00
Mortgages	5,000 00
Leasehold	4,660 00
Household Chattels	773 00
Total Inventory	$78,138 00

NOTE.—Follow this with a certificate similar to the one used in Section 129, or any that local practice may require.

128. Schedule No. 5.

SCHEDULE OF DEBTS DUE THE DECEDENT.

	Sperate.	Doubtful.	Desperate.
Note of the National Ground Co., dated September 1, 1905, due September 1, 1906; interest 5 per cent.		$500 00	
Note of A. Brown, dated October 2, 1900, due October 2, 1907, with interest at 6 per cent.; endorsed by C. Jackson and James Good.	$5,000 00		
Due by C. Good on open account, as per decedent's ledger, folio 10	700 00		
Due by C. Jones on open account, as per decedent's ledger, folio 35			$500 00
Note of R. Water, January 1, 1905, due January 1, 1907, with interest at 6 per cent.		200 00	
J. G. Black, for land purchased from decedent, the latter having died before conveyance of this property. This property to be conveyed by executor to carry out decedent's contract with Black	10,000 00		
	$15,700 00	$700 00	$500 00

Recapitulation:

Amount of Sperate Debts above	$15,700 00
Amount of Doubtful Debts above	700 00
Amount of Desperate Debts above	500 00
Total of Debts	$16,900 00

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Real Property.

129. **Real Estate Inventory.** A true and perfect inventory of all the Real Estate of John White, late of Baltimore City, deceased, appraised by us the subscribers, John Gray and Edward Black jointly, we having been first legally authorized and having taken the oath prescribed by law, as will be seen by the warrants to appraise and certificate thereto annexed.

An annuity or annual ground rent of $20, issuing and arising out of a certain lot of ground in the city of Baltimore, situated on the west side of Bethel street, about 80 feet northerly of Mullikin street, fronting on said first mentioned street about 10 feet, with a depth of about 97 feet.
Improved. R. O. 2255/302.

Value $285 71

A certain fee simple lot of ground in the city of Baltimore, situated on the west side of Park avenue, beginning at a point about 65 feet south of Centre street, running south 32-6/12 feet, with a depth westerly of 176 feet to Larews alley. Together with the improvements thereon, being a three-story brick house, known as No. 410 Park avenue, and stable in rear. See will of Jos. Jackson, recorded in Office of Register of Wills, in Wills I. P. C., No. 33-147.

Value 15,000 00

An undivided one-half interest in a farm in First District of Prince George's County, Maryland, containing about 350 acres. See will of Jos. Jackson, recorded in Office of Register of Wills, I. P. C., No. 33-147.

Value 1,000 00

Amount of Appraisement..... $16,285 71

We, the subscribers, do certify that the aforegoing is a true and just inventory and valuation of all and singular, the real estate of the said John White, deceased, so far as the same have come to our sight and knowledge and as valued and appraised by us in dollars and cents, according to the best of our skill and judgment.

In testimony of all of which we hereunto subscribe our names and affix our seals this 21st day of October, 1907.

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John Gray (SEAL) *Appraisers.* Edward Black (SEAL).
Robt. White *Admrs.* Chas. White.

Sworn to before the subscriber on the 21st day of October, 1907.

HENRY DOWNS,
Register of Wills for Baltimore City.

Estate Value.

130. **How Determined.** The value of the estate of the decedent is, as far as the personalty is concerned, computed by the court's appraisers.

As regards the realty (when devised to the executors for the benefit of the estate), to this no value is usually attached, but in the case of ground rents under a redeemable agreement (decedent being lessor) the value is fixed. In all other cases the tax assessment constitutes a practical appraisement of the realty.

131. **Personal Property Returned as of No Value.** If in the inventory the appraisers have returned certain personalty as of "no value" it should be treated so in the estate books, but such property should be kept, as it may in time become valuable.

132. **Inventory Value.** The valuation given in the inventory for stocks and bonds as returned by the appraisers should not be higher than the current quotations, nor should anything, in fact, be valued higher than the property can be reasonably expected to bring.

133. **Relation to the Accounting.** The figures as returned by the appraisers must be the basis for the accountant throughout the estate books. Likewise on the same basis the personal representative receives his commission and the residuary legatee his share of the estate. Funds transferred by an executor to himself as

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trustee are also transferred at the inventory value; but one year after such transfer the trustee must, when stating his account of the trusteeship, revalue the whole trust as of the market value of that date on which the account is stated, because his returns to the court are made on this latter basis. There is, however, very little to be gained by changing the original figures in the ledger, as copies of the account stated from year to year will show the changes in the value of the corpus of the trust.

NOTE.—Some States do not require the trustee to report the market value of securities when stating his accounts.

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CHAPTER VII.

CORPUS AND INCOME.

134. **In General.** This chapter brings us to a very important subject. A careful representative will want to keep the corpus of the decedent's estate separated from its income. Moreover, often the provisions of a will are such as to make it imperative to keep the same separated so that the rights of the life tenant and the remainderman may be properly protected. Again, the fact that the income begins to run as such from (but not including) the date of death makes it essential that the accountant should be well informed as to the difference between corpus and income and have a fair knowledge of the different assets which belong to each class.

135. **Corpus.** By the term "Corpus" we mean that, and only that which composes the body or principal of the estate.

136. **Income.** "Income," according to testamentary law, is that which is derived from the corpus or principal of the estate.

137. **Life Tenant.** A life tenant is a person who gets the use of the residue of an estate of a deceased for an intermediate term before it is turned over to some other person absolutely. The most common form of this estate is "To A for his natural life and at his death to B." Of course, this estate may also be given to A during the life of C and at the death of C to B. In either case A can only use the income of the estate and the corpus or principal must be kept intact for B or the "remainderman," as he is called in legal phraseology.

138. **Remainderman.** The remainderman is the party who gets the residue of the estate when the life estate terminates.

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139. **Are the Receipts Corpus or Income?** It can readily be seen how important it is that the corpus is kept separated from the income when there are some people hanging around waiting with covetous eyes for the time to come when they can enjoy the estate that belongs to some other person for life. Should the personal representative give anything to the life tenant which should more properly go to the corpus of the estate, he will quickly hear from some attorney representing the remainderman, who will call a halt and ask him for an accounting. Generally, during the time the personal representative is occupied in ascertaining and collecting the data which must comprise his inventory, and has had the accountant make the proper entries in the estate books, based on this inventory, receipts in form of interest, dividends, etc., have been coming in. Some of the receipts, by reason of legal requirements, belong to the corpus and the rest to the income of the estate. The question, therefore, now before the personal representative and the one which will always stare him in the face until the estate is finally settled is, What part of the receipts is corpus and what is income?

140. **No Ironclad Rule is Possible.** It is impossible to give any ironclad rule by which one can be separated from the other, because often the peculiar facts in any one case make it necessary for the life tenant and remainderman to resort to the courts to find out the proper distribution which should be made.

141. **Legal Advice.** Therefore, the personal representative should be careful and seek legal advice before crediting to either corpus or income any receipts, when there is any doubt as to whether they are corpus or income.

A List of Assets Showing When Corpus and When Income.

There are certain assets which have often been passed on by the courts, and with uniform results. These are given below and com-

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mented on with the object of showing what part of the same is corpus and what income. They are as follows:

142. **Household Chattels (Personal Property).** By this is meant furniture, ornaments, carriages, horses, plate, etc., and all like articles in the decedent's house, except those articles which are "fixtures." By "fixtures" is meant those things which are attached to, and hence a part of the realty or leasehold. Such are cornices and mirrors embedded in the walls, the removal of which would damage the building. With these exceptions and all such articles which the statute law allows the family of the deceased to set aside, all household chattels go into the estate corpus at the inventory value.

143. **Stocks and Bonds, etc. (Personal Property).** Stocks and bonds of corporations, bonds and loan certificates of municipalities are assets and go to make up the estate corpus at their appraised valuation as per inventory. Also certificates of stock or bond deposit (pending exchange, etc.), scrip and paper of the same tenor and class.[1]

144. **Cash on Hand (Personal Property).** Cash or checks found belonging to the decedent go to his representatives and all belong to the corpus of the estate.[2]

145. **Cash in Banks (Personal Property).** The decedent's bank deposit, whether in his own name, or jointly with another person, belongs to the extent of his interest to the corpus of the estate.

146. **Interest (Personal Property).** The word "interest" (referring to income) as used in this book means money which accrues *de die in diem* (day by day), not interest in the sense of dividends. Interest on notes, mortgages, registered and coupon bonds of corporations and municipalities, on debts due the decedent, and de-

[1] Schouler, Ex. sec. 202.
[2] Schouler, Ex. sec. 200.

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ferred interest, *i. e.*, interest on interest which has been allowed to lapse, is of the kind that accrues from day to day.[a]

Now the portion of this interest accrued to and including the day of death of the decedent must be treated as corpus, and that part only; the rest is income.

NOTE.—(*a*) Legal practice and the accounting for original estates seems to be governed by the custom to class all assets received, due or earned (including dividends declared) *on or before* date of death as corpus, no matter when paid.

(*b*) In the case of a trust estate for the benefit and use of a person for his life, with remainder over to some person, the question whether the life tenant's heirs receive the income from the trust estate up to and *including the day of death* of the life tenant, or whether the life tenant's tenure ceases with the day previous to his death, is not so clearly settled as to be able to give any definite rule. Custom would seem to favor that the possession of the remainderman would begin the day after the date of death of the life tenant. In the treatment of this phase of the accounting the author's will assume that the day of the life tenant's death is included within his life tenure of the trust.

(*c*) In accruing and apportioning "to the day of distribution" for heirs, etc., the authors have not included the day of distribution as belonging to the estate. The interest should be accrued, and that portion beginning with the date of distribution belongs to the distributee.

147. **Cash Dividends on Stock, etc. (Personal Property).** If such dividends are declared and paid on or before the date of death of the decedent, then the representative and the accountant will have no trouble, because this money is part of the corpus and taken over by them as such.

Now, as dividends do not accrue day by day, the general rule is that if such dividends be actually declared on or before the date of death of the decedent, even though payable after death, then the whole dividend goes to the corpus when received.

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[a]Schouler, Ex. sec. 200.

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Of course, if cash dividends are declared after the date of the death of the decedent, then they go to income.

148. **Dividends which are Part Cash and Part Stock (Personal Property).** If such a dividend is declared and paid on or before the death of the decedent, then, of course, the representative and accountant will have no trouble, because the money is a part of the corpus and taken over by them as such.

Now, as dividends do not accrue day by day, the general rule is that if such a dividend is declared on or before the date of death of the decedent, even though part cash and part stock, and not payable until after death, both the cash and the stock belong to the corpus. If, however, a part cash and part stock dividend is declared after the date of the death of the decedent, then the cash must go to income, but whether the stock part of the dividend should go to corpus or to income is a question which must generally be fought out in the courts. (See "Dividend in Capital Stock" below).

149. **Dividend in Capital Stock (Personal Property).** When stock dividends are declared and payable before the death of the decedent, then, of course, they belong to the corpus of the estate. The same holds good when they are declared on or before the date of death of the decedent, but payable after death. But when it comes to determining whether stock dividends declared and payable after the date of death of the decedent are income and go to the life tenant, or are corpus and go to the remainderman, we have a question for the law courts in nearly every instance. This is due to the fact that a corporation can arrange for a dividend out of the earnings in so many different ways that the facts in very few cases are alike, hence it is hard for the courts to establish a general rule which might be followed. All we can say to the personal representative and to his accountant is, call in legal advice.

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150. **Extra Dividends in Cash (Personal Property).** Apply the same rule here as in case of cash dividends.

151. **Extra Dividends in Stocks (Personal Property).** What has been said about dividends in capital stock holds good here.

152. **Rights to Subscribe to Stock (Personal Property).** Corporations frequently give their stockholders the first "right" to subscribe to a new issue of bonds or stock. These rights are assignable and may usually be sold on the market. Funds derived from the sale of the same should be treated as corpus, for it is held that the right to subscribe for new stock is capital (corpus).

153. **Fire Insurance (Personal Property).** (a) *Return Premium.* If a policy taken out by the decedent to cover damage or loss to property owned in fee simple or subject to a ground rent is cancelled by his representative, then any return premium is corpus, no matter when returned, because the policy is, so far as the premiums are unexpired, and as to any loss on the property insured, an asset of the estate at death. The value of this asset decreases as it nears its expiration.

(*b*) *Money Received for Damage or Loss.* Should the fee-simple or leasehold property of the decedent burn prior to his death, but the insurance money on the same not be paid until after his death, then such money received goes into the corpus.

Where the testator devises certain fee-simple property to his executor, the same to be sold for the benefit of the estate in general, in such a case, whether the loss occurs before or after death, the insurance money goes to the estate corpus.

Now, should any leasehold property (any property subject to a ground rent) which may be owned by the decedent and given to someone by will be destroyed by fire prior to death of testator, then the insurance, of course, goes to the corpus by operation of law.

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On the other hand, should the decedent die possessed of a ground rent and the leasehold property located thereon be destroyed by fire, it may so happen that the owners of the leasehold are not responsible parties, and the personal representatives find it impossible to collect the ground rent as it falls due. To provide for such a contingency it is customary for the owner of a ground rent to insure the same.

154. **Permanent Insurance Funds (Personal Property).** When a decedent has deposited with an insurance company a lump sum to create a perpetual policy on his buildings, then the deposit should be treated as cash on deposit, and when the policy is cancelled and the deposit withdrawn same should go to the estate corpus.

155. **Insurance of Property under Mortgage (Personal Property).** Should the representative hold a mortgage on some property to secure a debt due the decedent and the property be destroyed by fire, then the proceeds of the insurance up to the amount of the mortgage debt belong to the corpus of the estate. As for the rest, that goes to the mortgagor.[4]

156. **Life Insurance (Personal Property).** Should a life insurance policy be found payable to the estate of the deceased and the same not have been assigned to another during his lifetime, then the proceeds of insurance belong to the corpus of the estate.

Should there be a policy found payable to another party and this beneficiary have died before the death of the decedent, then the proceeds of the policy revert to the estate of the deceased and belong to the corpus of the estate.[5]

In case the representative should come across a policy paid up in full and on which the decedent received an annuity for life,

[4] Cooley's Brfs. Ins., vol. 4, p. 3699, sec. G.

[5] Schouler, Ex. sec. 211.

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then such annuity, or so much of it as the insurance company may pay his representative up to decedent's death, goes into the corpus of the estate.

157. **Debts due the Decedent (Personal Property).** These are generally subdivided or classified into Sperate (good), Doubtful and Desperate (hopeless) and embrace open accounts (accounts receivable), promissory notes, etc., held by the decedent. These go to the corpus of the estate as and when paid.

158. **Mortgages Receivable (Personal Property).** Where the decedent is mortgagee the law considers this interest as a debt due the deceased or his estate, and the mortgage the mere incident, but to conform with the general practice the same should be inventoried and thereafter treated as a mortgage. When the same is paid, or if the mortgage is sold, foreclosed, or distributed to the legatee or heir, then the proceeds or valuation at which it is distributed is corpus of the estate.[6]

159. **Advances by Decedent to his Children and Relations (Personal Property).** If a man by his will leaves certain legacies to his children or relatives, but specifies that any advances he may have made to any legatee during his life time be considered as a part payment of such legacy, and the same to be deducted from it at his death, such advance or advances constitute corpus of the estate.

160. **Executors and Administrators as Debtors of the Decedent. (The Debt is Personal Property.)** The representative of the decedent must account for such indebtedness and inventory the same along with the other debts. When paid, such money belongs to the corpus.[7]

161. **Condemnation of Property. (In this case Personal Property.)** Where land has been taken from the deceased and damages properly assessed before his death, then when the damages are

[6]Schouler, Ex. sec. 214; Brantly on Personal Property, sec. 6.
[7]Schouler, Ex. sec. 208.

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paid after death to the personal representative they belong to the corpus of the estate. Such is not the case if the land was taken after the owners' (decedent's) death, unless the decedent had devised the real property to his representatives for the estate in general.[8]

162. **Salary (Personal Property).** Salary due the decedent belongs to the corpus of the estate when paid.[9]

163. **Machinery. (In this case Personal Property.)** Machinery not so fixed to the realty as to be classed as a "fixture" is generally personalty; but also where the building is leasehold property it would, of course, go with the building to the personal representative of the decedent and belong to the corpus of the estate. Also, should the deceased have placed some machinery in a building which he had rented for only a short time then it would go to the representative and be classed as corpus.

164. **Cattle (Personal Property).** All the cattle owned by the decedent before his death goes into corpus of the estate, but all the young born after the date of death of the decedent belong to the income, and hence the life tenant during his term.[10]

165. **Decedent as Annuitant in his Lifetime. (Annuities are Personal Property.)** Where a fund has been set aside to create and guarantee an annuity, and such annuity accrues *de die in diem,* or where the annuity, whether of interest or dividends, is for the maintenance and support of a widow, or for women separated from their husbands, or where the annuity is for the benefit of an infant, regardless in these cases whether it accrues *de die in diem* or not, then, and only in such cases as given above, can the personal representative of the annuitant collect the part accrued or

[8] Schouler, Ex. sec. 218.
[9] Schouler, Ex. sec. 200.
[10] Amer. and Eng. Encyclopedia, 2d Ed., vol. 2, p. 349.

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accumulated to date of death of the annuitant. Should the latter happen to die on the day on which he would ordinarily have received the same, the whole annuity would be due the decedent's estate. Whether paid in whole or part, it belongs to the corpus of the annuitant's estate.

Annuities, except in the cases cited above, do not seem to be apportionable, but an annuity which accrues *de die in diem* is always apportionable.[11]

166. **A Bequest to the Decedent in his Lifetime (Personal Property).** Suppose the decedent was, at the time of his death, a beneficiary or legatee of some other estate to the amount of $800, payable annually in sums of $50, and that up to the time of his death only $50 had been paid him. In this case the personal representative would collect the remaining $750 in lots of $50 annually, and include the same in the corpus of the estate of the decedent.[12]

167. **Growing Crops (Personal Property).** If the decedent owned land in fee simple, or had leased the same, then the crops planted and growing before his death pass, at his death, to the personal representative and belong to the corpus of the estate.

Should the testate have devised or willed his property, then the crops go with the land to the devisee, unless the will exhibits an intention to the contrary. Should, however, the personal representative be instructed under the will to hold the land in trust for a life tenant, then the crops planted after death of the decedent would be income and not corpus of the estate.[13]

168. **Trees, Clover, Grass, etc. (In this Case Personal Property.)** When they are actually or constructively severed from the ground

[11]Brantly on Personal Property, sec. 91.

[12]Brantly on Personal Property, sec. 89.

[13]Schouler, Ex. sec. 226; Brantly on Personal Property, sec. 35.

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on or previous to the day of the decedent's death then they are personal property and belong to the corpus of the estate.

By actual severance one will readily understand the actual cutting of the trees, clover, grass, etc., from the ground.[14]

Constructive severance would occur where the decedent had sold and conveyed the land, but expressly reserved the trees, clover, grass, etc.[15]

169. **Partnership Interest in a Business (Personal Property).** It is self evident that a partner has an interest in his business at the time of his death to the extent of the capital he has invested, plus his share of the profits, or less his share of the losses and that this all belongs to the corpus of the estate. But should a partner, in accordance with the partnership agreement, be entitled to his proportion of the profits of the firm for a fixed period after death, then such profits also belong to the corpus of the estate. The value of such an interest cannot, of course, be pre-determined.

170. **Decedent as Sole Owner of Business.** When the decedent is the sole owner of a buisness, then the part which is personal property goes to the personal representatives of the deceased and belongs to the corpus of the estate. The decedent's books should in this case be closed and a new set of books opened if the business is to be continued.

171. **Trade-marks, Copyrights and Patent Rights (Personal Property).** These are assets of the decedent's estate, and belong to the corpus of the estate. Money derived from the sale of these rights is corpus. Money derived from the use of these rights up to and including the date of death of decedent goes to the corpus of the estate, but money derived by the retention of these rights after death is income.

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[14] Schouler, Ex. sec. 226.
[15] Brantly on Personal Property, sec. 35.

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172. **Royalties (Personal Property).** Rule given under "Trademarks, Copyrights and Patent Rights" will apply here.

173. **Good-will (Personal Property).** The good-will of the deceased man's business when it goes to the personal representative is corpus.

174. **Seats on Exchanges (Personal Property).** The purchaser takes these subject to the rules of the governing board. If these seats are assignable at death, then the proceeds belong to the corpus of the estate.

175. **Ships (Personal Property).** If the decedent owns a ship, or an interest in one, then whatever the personal representative can get for the ship, or the decedent's interest, belongs to the corpus of the estate. Nowadays ships are mostly owned by corporations, the decedent simply possessing shares of stock in the latter.

176. **Land. (In this Case Treated as Personal Property.)** Where the decedent owned land in fee simple, or subject to a mortgage, and by his will devised the same to his executor as trustee to sell, the proceeds to go into the general assets of the estate for distribution, then such property is considered as a personal asset and goes to the corpus of the estate. With lands subject to a mortgage the mortgage must, of course, be satisfied first.

NOTE.—Ordinarily the personal representative of a deceased has no jurisdiction over real property unless the personal assets of the deceased are insufficient to pay the creditors of the estate. If such is the case, then he must take enough of the realty to pay such debts, but any proceeds remaining out of the proceeds of the sale of such property is to all intents and purposes realty, and goes to the heirs-at-law. This is the general rule, but may not be operative as to an executor on account of the provisions of the decedent's will. As to the administrator of an intestate the above rule always holds good.[16]

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[16] Schouler, Ex. secs. 212, 214.

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177. **Leasehold Property (Personal Property).** Leasehold property is personal property and belongs to the corpus of the estate, but this does not necessarily include the rents derived from such property.

178. **Leasehold Interests in Property (Personal Property).** These interests belong to the corpus of the estate, but their valuation is often difficult.

179. **Houses and Buildings.** When attached to fee-simple property then they go with the land as real property, unless the decedent has, as explained above under the head of "Land," provided by the will that the same be disposed of by his representative, then the proceeds of the land and the improvements together belong to the corpus of the estate.

Should, however, the houses or buildings be on leased land, then they would be personal property and belong to the corpus of the estate, except in such States where 99-year leases are made realty by statute.

NOTE.—Where they are real property and are made corpus of the estate by reason of a will, it is evident that the executor alone is concerned. Where the buildings, etc., are leasehold, however, both the executor and administrator would be concerned.

180. **Rents. (In this Case Personal Property.)** If the decedent has died owning land, or land and buildings, in fee simple which were leased to someone and he devised the same to his executor to sell and distribute the proceeds, then the rents collected by the personal representative should (where statute provides) be accrued to the date of the decedent's death, inclusive, and only such apportionment be placed to the credit of the corpus, the balance after date of death being income.

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The same apportionment should (where statute provides) be made where the decedent has died possessed of leasehold property, irrespective of whether he died testate or intestate.[17]

NOTE.—The first case concerns executors alone. The second (leasehold) concerns both executors and administrators.

The rents were not apportionable at common law, but have become so by statute in many of the States. Where statute fails to provide for this, the rents due, payable *and earned* on or before the decedent's death belong to the corpus of his estate. Should the decedent have died on October 12 and the rents due him fall due and payable October 13 for the month previous, it would *all* be income, unless statute provided for apportionment. In this latter event that portion accrued to and including October 12 would constitute corpus and the balance income.

181. **Profits on Sales of Corpus over Value of Appraisement (Personal Property).** Should any of the personalty of the deceased be sold (by court's permission) and the sale realize a profit over the appraisement, then such profit belongs to the corpus of the estate. Appraisers, like other people, cannot predict the market. They only use the approximate or current values at the time of appraisement and not at the time of sale.[18]

A List of Assets, All or Part of Which Are Always Income.

The following is a list of assets, all or part of which are always income:

182. **Interest.** As explained before, the word "interest" (referring to income) as used in this book, means money which accrues

[17] Schouler, Ex. sec. 216.
[18] Brantly on Personal Property, sec. 111.

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de die in diem (day by day), not interest in the sense of dividends. Interest on notes, mortgages, registered and coupon bonds of corporations and municipalities, on debts due the decedent, and deferred interest, *i. e.*, interest on interest which has been allowed to lapse, is of the kind that accrues from day to day.

Now, that part of this interest which accrues after the day of death of the decedent is income.

183. **Cash Dividends on Stock, etc.** If cash dividends are declared after (but not on) the date of death of the decedent, then they are income.

184. **Dividends which Are Part Cash and Part Stock.** If a part cash and part stock dividend is declared after the date of death of the decedent, then the *cash* is income, but whether the stock part of it is income is a question which must generally be determined by the courts.

185. **Extra Dividends in Cash.** If these are declared after the date of death of the decedent, then they are income.

186. **Cattle.** All the young born after the death of the decedent are income.

187. **Growing Crops.** When the personal representative is instructed under the will to hold land of the deceased in trust for a life tenant, then the crops planted after death of the decedent are income.

188. **Trade-marks, Copyrights and Patent Rights.** Money derived from the use of these rights after death of decedent is income.

189. **Royalties.** Money received from this source after death of decedent is income.

190. **Rents.** If the decedent has died owning land or land and buildings in fee simple which were leased to someone and he devised the same to his executor to sell and distribute the proceeds, then the rents collected by the personal representative

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should (where statute provides) be apportioned to and including the date of the decedent's death; that portion earned after the date of death is income. (See notes, secs. 146, 180.)

The same holds good where the decedent has died possessed of leasehold property, irrespective of whether he died testate or intestate.

Merger of Corpus and Income if no Will.

191. **General Remarks.** It is certainly advisable for the personal representative and the accountant to keep the corpus and income separated on the books of the estate, whether the deceased died intestate or not. When the time for distribution arrives (the decedent having died without a will), then, of course, the income will merge with the corpus and become a part of the corpus of the estate.[19]

Corpus and Income of Trust Funds.

192. **Trust Estate Created by Decedent's Will.** It is readily seen that we cannot have a trust estate in testamentary accounting unless the decedent leaves a will to create one. In short, no will, no trust estate.

In trust estates there is generally property set aside from which a certain beneficiary is to receive the income for a certain length of time.

The general rules as laid down above under the head of "A List of Assets Showing When Corpus and When Income" (page 64) will also hold good in the case of trust funds, with the one exception that the income being for the use of another party cannot merge with the trust corpus, unless the terms of the will provide that after the payment of a certain annuity the accumulated surplus shall be added to the corpus of the estate.

[19]Schouler, Ex. sec. 200.

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193. **Reversion of Trust Funds.** Where the testator creates a trust estate with the use of the income thereof to another for his or her natural life, with the provision that at such beneficiary's death the trust corpus becomes an asset for distribution as per will, then the corpus of the trust estate reverts and becomes part of the corpus of the decedent's estate.

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CHAPTER VIII.

LEGACIES, ANNUITIES, DISTRIBUTION, RELEASES, REFUNDING BONDS AND COMMISSIONS.

Legacies.

194. **Definition.** A legacy is a gift by the decedent in his will to a person, or for the benefit of an institution or undertaking. The word "bequest" is the more concise term for a testamentary gift of personalty, and the word "devise" refers to one of realty.

195. **Kinds of Legacies.** Legacies are of two kinds—either "General" or "Specific." The first kind can be subdivided into other classes, but as the subdivisions have no real bearing on estate accounting they will be omitted in this article.[1]

196. **General Legacies.** "A general legacy is one which does not necessitate delivering any particular thing, or paying money out of any particular portion of the estate." "Thus, if the testator bequeaths to A a horse or a gold ring, this indefinite expression constitutes a general legacy; for we may infer that the executor is left free to procure something which shall answer that description out of the funds in his hands, provided none be left at the testator's decease."[2]

A general legacy is a charge upon the assets of the estate left after the specific legacies are set aside. Most general legacies are "Pecuniary," such as "I bequeath to the Orphan Asylum of C $5000.00," or "I bequeath to J. Jones $1000.00."

[1]Schouler, Ex. sec. 461.
[2]Schouler, Ex. sec. 461.

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197. **Specific Legacies.** A specific legacy is the converse of a general one. It is one where, according to the terms of the bequest, a particular thing must be delivered, or money paid out of some particular portion of the estate.[2]

A bequest by the testator to A of "my 100 shares of stock in the C. & O. Railway, certificate No. 46," is a specific legacy. Should the testator subsequent to such bequest have disposed of this certificate, or have secured a certificate of a different number in its place, such bequest would have been void by reason of "ademption."

A bequest by the testator of $50.00 to be paid to B out of my deposit in the Savings Bank of C, pass-book No. 40, is also a specific legacy.

198. **Comparison of and Remarks on Legacies, Specific and General.** It seems from the authorities on the subject that a legacy, to be held specific by a court of equity, must be so worded as to show clearly that the purpose of the testator was "to transfer all or part of the same identical fund" from which the legacy was directed to be taken.[4]

Courts of equity do not, as a rule, construe a legacy as specific where any doubt arises as to its proper classification. This is due to the fact that specific legacies and the income derived from them from the date of death do not abate for the debts of the estate in the same order as general legacies. Should the assets of the estate prove insufficient to meet the liabilities, then the general legacies abate first and specific ones are only taken as a last resort.[5]

199. **Specific Legacy and Income.** A specific legacy vests in the legatee from date of death of the testator, as does also the interest or income, or increase derived therefrom subsequent to such date

[2]Schouler, Ex. sec. 461.
[4]Schouler, Ex. sec. 461.
[5]Schouler, Ex. sec. 461.

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of death. "Thus a specific legacy of domestic animals carries subsequent offspring of the females and all profitable usufruct; a specific legacy of stock the dividends since accruing, and a specific legacy of notes, bonds or other incorporeal personalty, the interest and coupons, if any, appropriate thereto from a similar date; in short, whatever the specific thing or fund has legitimately earned from the time the legatee's right became vested." "Prudence dictates, therefore, that the executor should discharge himself of specific legacies as soon as he is satisfied that he may safely do so, considering the debts, for while he retains the specific thing or fund with its accretions, he must account as for the management of something distinct from the testator's general estate."[6]

200. **General Legacy and Income.** As for a general legacy, it is not necessary to pay that until one year after the testator's death, and it carries with it no interest or increase up to such date of one year after death.

201. **Exceptions to General Rule.** An exception to the general rule as to the time of payment and the income due on a general legacy seems to be where the legacy was left in satisfaction of a debt. In such a case interest from the death of the testator should be allowed. Of course, when the 12 months after the death of the testator have passed a general legatee should be allowed interest if the legacy be then unpaid, but only beginning with the date as of one year after the testator's death up to the date of satisfaction of such legacy.[7]

Exceptions as to the time of payment of general legacies, as well as the question of interest on the same, occur where the will expressly and concisely states directions to the contrary, but such directions must be specific, and not merely optional, both as to the time of payment and the interest to be allowed.

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[6]Schouler, Ex. sec. 480.
[7]Schouler, Ex. sec. 481.

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202. **Death of Legatee prior to death of Testator.** A legacy is generally held to be void when the legatee dies before the testator. If, in such an event, no substitution has been provided for by the testator, then the legacy belongs to the estate.[8]

203. **Ademption.** Ademption of a legacy occurs when the testator in his lifetime, but subsequent to making a specific bequest, does something which renders the payment of such a specific legacy by his personal representative an impossibility. The line of distinction between what constitutes ademption and what does not is sometimes very hard to draw. In one case where the testator bequeathed some cloth, such bequest was held to be void, since subsequently it had been made into a coat.

A specific legacy failing in whole or part entails no claim on the estate. Ademption of legacies, both specific and general, may also occur by revocation by codicil.[9]

204. **Payment of Legacies.** Specific legacies are paid with the property so specified by the testator.

It is customary to pay general legacies in cash.

Annuities.

205. **Definition.** An annuity, for our purpose, is a bequest of a certain sum of money payable periodically for a certain length of time.

206. **Provision to Guarantee Annuity.** A will may direct a specified amount to be paid to a person as an annuity and not provide a fund to guarantee this annuity. In such a case the court will order certain funds set aside for that purpose, and it is quite evident that whether the testator does this or the court, a sum must be set aside sufficient to provide for the annuity, and also for a surplus as a margin against possible depreciation in income.

[8] Schouler, Ex. sec. 467.
[9] Schouler, Ex. sec. 471.

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207. **Payment of Annuities.** An annuity, unless there is a provision to the contrary in the instrument creating it, becomes due and payable dating from the death of the testator. Payments are usually made weekly or monthly. Payments made prior to the reservation of a fund to create the same are a charge against the income of the estate.

208. **Disposition of Surplus.** Unless provided for in the will, the surplus after payment of the annuity, and the taxes on the fund set aside to produce such annuity, should go into the estate income for distribution to the residuary legatees. The title to the fund set aside to guarantee the annuity should be in the name of the executor.

Distribution.

Distribution applies, in general, to personalty alone, because the real estate of the decedent descends to the heirs. The surplus of the proceeds of a sale of realty, after payment of debts, may be distributed among the heirs or those claiming under them.[10]

209. **When to Distribute.** The distribution of an estate is governed entirely by a court of probate, except when real estate is disposed of by a court of equity, but in any event the original proceedings have taken place in the Probate Court, and have by that court's orders been taken to a Court of Equity.

When ready for distribution permission for such a step should be obtained from the court. The court, if sanctioning the distribution, will order an "administration account" to be rendered to it. Such report should include everything pertaining to the estate up to and including the date as fixed, but not transactions thereafter. All debts or general creditors should be satisfied or amply guaranteed before the distribution of an estate.

[10]Schouler, Ex. sec. 505.

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210. **How to Distribute.** Cash is, of course, very easily distributed, but when it comes to an estate comprising stocks, bonds and other securities the process is a tedious matter. The general custom is to pay the general legatees in cash, also creditors of the estate, and expenses attending administration. Specific legacies must be paid as directed by the will (subject to ademption). To the residuary legatees the securities themselves should be distributed and not first reduced to cash. Securities of any one kind should be divided as equally as possible among the residuary legatees of the estate, even though each distributee receive only one share, or one bond, of each particular kind. The reason for this is, of course, evident, for should any particular security afterwards turn out to be worthless, then the residuary legatees would share the loss alike, and not one alone would be the sufferer. It is the only equitable basis of distribution of such property which has no fixed or certain value. Of course, you cannot split one share or one bond, but the personal representative should distribute as nearly equally as possible any one class of securities.

211. **Accruing Income to Date of Distribution.** There is another thing which should be taken into consideration when a distribution is made, and that is the income which accrued up to the day of distribution, but which has *not yet been received.* In accruing and apportioning this it is necessary to follow the rules governing such apportionment, which rules have been fully explained in Chapter VII, "Corpus and Income."

By way of review we may mention that interest accrues *de die in diem* and should be apportioned to day of distribution. Rents (where statute provides) may be apportioned in the same manner. Dividends must be declared before the date of distribution in order to belong to the estate. If they be declared after date of distribution (or as of such date) they belong to the distributee of the security. It is evident, therefore, that dividends (except under

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very special circumstances) are never apportionable. Either all of the dividend belongs to the estate, or all to the distributee, this being determined according to whether the dividend was declared before date of distribution or after. The date when such dividend is payable has nothing to do with the determination of this fact.

Therefore, when distributing any property on which there is interest, that portion accrued to date of distribution should be charged to the distributee and collected from him. Rents may, of course, be apportioned when received. Dividends can be taken care of when distributing stock by transferring "ex-dividend," and when the executor or administrator receives such dividend, and provided the same has actually been declared prior to date of distribution, then such dividend should be distributed by the representative to the party or parties entitled to it.

212. **What to Distribute.** The property which is generally held to be distributable is:

Corpus.

Cash.
Stocks, bonds, scrip, certificates of stock deposit, etc.
Leasehold property.
Savings bank deposits.
Mortgages.
Mortgage notes.
Household chattels.

Income.

Cash, consisting of interest, dividends, rents derived from the estate under control of the executor or administrator from date of death up to date of distribution.

213. **What Not to Distribute.** Debts due the decedent, promissory notes unsecured by mortgage, and such uncertain assets are not generally distributable. Nor is it usual to distribute stocks,

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bonds or other property which is returned by the court as of "no value." Where such property can be divided and the personal representative has some good reason for wishing to close out the estate it is sometimes done.

214. **To Whom to Distribute.** An executor must distribute to such parties and in such a way as the will directs. As for the representative of an intestate, he is governed by the statute of the state in this matter.

Distribution of an estate is made after payment or ample provision for debts has been made. The order in which distribution is generally made is as follows:

Specific Legatees (as specified).
General Legatees.
Trustees (cash, securities, etc.).
Residuary Legatees (the residue).

215. **Number of Distributions.** If, after the first administration account involving distribution has been filed, there is more estate left to be administered, then other administration accounts must be rendered as provided by the law. At your first distribution, if your estate is a large one, it is possible that only the legacies in cash and the specific legacies were paid. In such a case it is likely that the second administration or distribution will be ordered within two or three months, or as soon as possible, especially where trust funds and annuities must be provided for, because these are matters which should have the earliest possible attention. Residuary legatees must, of course, wait until all other legatees and annuitants have been taken care of before receiving their share of the estate.

216. **Distribution Without Order of Court.** The personal representative who distributes of his own accord without the sanction or direction of the court, even though he is, apparently and in

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good faith, following the dictates of the local statute or of the will, lays himself open to liability for losses. Moreover, where trust funds are concerned, he should not pay to or for the life tenant any cash, etc., as an advance against the income of such fund before the court has created it.

Releases.

217. **One from Each Distributee.** When the personal representative is ready to make distribution he should get each legatee, whether it be an individual or a corporation, to execute in his favor a release or receipt under seal, setting forth in detail the securities, cash, chattels, etc., which he is about to turn over to each. These releases are then made a matter of public record.

218. **Blank Forms of Releases.** Below are given three blank forms of releases, two for an individual and the other for a corporation. They are to one or more personal representatives, as the occasion requires.

No. 1. RELEASE BY INDIVIDUAL TO { Executor or Administrator.

KNOW ALL MEN BY THESE PRESENTS:

That.....

.....

.....

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and in consideration thereof ..... do hereby release, acquit, exonerate and discharge the said .....
.....
heirs, executors and administrators of and from all and every action, suit, claim or demand which could or might possibly be brought, exhibited or prosecuted against.....
..... them or any of them, for or on account of
.....
.....
.....
or the payment thereof, hereby declaring.....
satisfied, contented and paid as above specified. Given under
..... hand and seal this ..... day of.....
in the year nineteen hundred and .....

Signed, sealed and delivered in the presence of

..... [SEAL.]
..... [SEAL.]

STATE OF MARYLAND, ... to wit:

I HEREBY CERTIFY That on this .....
day of ..... in the year nineteen hundred and
..... before the subscriber .....
..... of said State, in and for said .....,
personally appeared .....
..... part ..... to the above Release and acknowledged the same to be h.... act and deed. And I do hereby certify that of my own personal knowledge I am satisfied that the said .....
.....
who ha.... acknowledged the above release .....
the person named and described as and professing to be .....
....., the part ..... in and to the same.
.....

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No. 2. RELEASE BY INDIVIDUAL TO { Executor or Administrator } Used in New York State.

KNOW ALL MEN BY THESE PRESENTS,

That .....
hereby acknowledge the receipt of the sum of .....
..... dollars
to ..... in hand paid by .....
.....
..... of the .....
..... deceased, the said sum of
..... dollars,
being in full for .....
interest in the ..... estate
of said deceased. and in consideration of such payment.....
hereby for .....
heirs, executors and administrators, remise, release and forever
discharge the said .....
.....
and ..... heirs, executors and administrators of
and from all claims and demands which ..... or they now
have or hereafter may have against.....
by reason of any acts or matters done or omitted to be done by
..... as such
..... in connection
with said estate.

Signed, sealed and delivered in the presence of

.....

.....

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STATE OF .....,

COUNTY OF ....., SS.:

On this ..... day of ....., 19...., before me personally came ..... to me known, and known to me to be the individual described in and who executed the foregoing instrument and to me acknowledged that ..he.. executed the same.

No. 3. RELEASE BY CORPORATION TO { Executor or Administrator.

KNOW ALL MEN BY THESE PRESENTS:

That .....
.....
.....
.....
.....
.....
.....
.....
.....
and in consideration thereof ..... do.... hereby release, acquit, exonerate and discharge the said.....
.....
....., heirs, executors and administrators of and from all and every action, suit, claim or demand which could or might possibly be brought, exhibited, or prosecuted against .....

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..... them, or any of them, for or on account of .....
.....
of the payment thereof, hereby declaring ..... satisfied, contented and paid as above specified.

And the said body corporate doth hereby constitute and appoint ....., as its true and lawful attorney, for it and in its name, and as and for its act and deed, to acknowledge this instrument of writing before anyone legally authorized to take such acknowledgement.

As WITNESS the corporate seal of .....
.....
and the signature of .....
its President.

.....

By .....
President.

STATE OF MARYLAND, ... to wit:

I HEREBY CERTIFY That on this, the ..... day of ....., in the year one thousand, nine hundred and ....., before me, the subscriber, ...
..... of said State, in and for the said ..... personally appeared .....
the attorney named in the aforegoing instrument of writing, and by virtue and in pursuance of the authority therein conferred upon him, acknowledged the said instrument of writing to be the act and deed of the said .....

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AND I DO HEREBY CERTIFY That of my own personal knowledge I am satisfied that the said .....
who hath acknowledged the above release, is the person named and described as and professing to be .....
the duly constituted attorney of .....
the party in and to the same.

.....

NOTE.—The appointment of an attorney to acknowledge a release for a corporation is no longer necessary in all the States, as some allow certain officers to make it. In that case forms Nos. 1 and 2 would be used.

219. **Forms Filled Out.** Next is given one of each of the two kinds of forms filled out and executed.

Release No. 1.

KNOW ALL MEN BY THESE PRESENTS:

That John Brown, executor of the last will and testament of Caroline White, has paid and satisfied the legacy of five hundred ($500) dollars and turned over to me a large gold chain bequeathed to me, Nellie Jackson, a daughter of a deceased sister of Caroline White, deceased.

And in consideration thereof I do hereby release, acquit, exonerate and discharge the said John Brown, executor as aforesaid, his heirs, executors and administrators of and from all and every action, suit, claim or demand which could or might possibly be brought, exhibited or prosecuted against them, or any of them, for or on account of the said sum of money paid as aforesaid and a large gold chain paid as aforesaid, or the payment thereof, hereby declaring myself fully satisfied, contented and paid as above specified.

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Given under my hand and seal this 30th day of June, in the year nineteen hundred and eight.

Signed, sealed and delivered
in the presence of NELLIE JACKSON, [SEAL.]
JOHN JONES [SEAL.]

STATE OF MARYLAND, BALTIMORE CITY, TO WIT:

I HEREBY CERTIFY That on this 30th day of June in the year nineteen hundred and eight before the subscriber, a Notary Public of said State, in and for the city aforesaid personally appeared Nellie Jackson, party to the above release, and acknowledged the same to be her act and deed.

And I do hereby certify that of my own personal knowledge I am satisfied that the said Nellie Jackson, who has acknowledged the above release, is the person named and described as and professing to be Nellie Jackson the party in and to the same.

JOHN JONES,
[L. S.] Notary Public.

Release No. 3.

KNOW ALL MEN BY THESE PRESENTS:

That the Hebrew Benevolent Society of Baltimore City (a corporation duly incorporated) has received from Charles King, executor of the last will and testament of George King, late of Baltimore City, deceased, the sum of one hundred dollars ($100.00), being legacy bequeathed to it by the last will and testament of the said George King, deceased.

And in consideration thereof, it doth hereby release, acquit, exonerate and discharge the said Charles King, executor as aforesaid, his heirs, executors and administrators of and from all and

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every action, suit, claim or demand which could or might possibly be brought, exhibited or prosecuted against them or any of them, for or on account of the said legacy of one hundred dollars ($100.00), or the payment thereof, hereby declaring itself satisfied, contented and paid as above specified.

And the said body corporate doth hereby constitute and appoint John Smith, as its true and lawful attorney, for it and in its name, and as and for its act and deed, to acknowledge this instrument of writing before anyone legally authorized to take such acknowledgment.

As WITNESS the corporate seal of The Hebrew Benevolent Society of Baltimore, and the signature of John Smith its President.

THE HEBREW BENEVOLENT SOCIETY OF BALTIMORE.

[SEAL.] By JOHN SMITH, President.

STATE OF MARYLAND, BALTIMORE CITY, TO WIT:

I HEREBY CERTIFY That on this, the 6th day of September in the year one thousand nine hundred and six, before me, the subscriber, a Notary Public of the said State in and for the city aforesaid personally appeared John Smith, the attorney named in the aforegoing instrument of writing, and by virtue and in pursuance of the authority therein conferred upon him, acknowledged the said instrument of writing to be the act and deed of the said The Hebrew Benevolent Society of Baltimore. And I do hereby certify that of my own personal knowledge I am satisfied that the said John Smith, who hath acknowledged the above release, is the person named and described as and professing to be John Smith, the duly constituted attorney of The Hebrew Benevolent Society of Baltimore, the party in and to the same.

As WITNESS my hand and my notarial seal.

ROBERT BROWN,

[SEAL.] Notary Public.

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Refunding Bonds.

220. **Distributing Ahead of Time.** There are sometimes good reasons why a personal representative should distribute the estate of the deceased before the time allowed for the filing of claims has expired. When distributing in this way the representative may be absolutely sure that all debts have been paid and yet after the legatees have received their respective shares some claim may be proved and filed. In this case the only thing the executor or administrator can do is to ask the beneficiaries to liquidate the claim. Should they be unable or refuse to do so, then the representative himself must "cash up."

To avoid a predicament of this kind it is a simple and safe way to require the legatees to give refunding bonds to the representative, thus holding him protected against any unforeseen creditors which may put in their appearance after distribution.

Commissions.

221. **For Personal Representative.** In practically all the States commissions are now allowed to the personal representative for settling up estates. In many States they are based on the amounts received and those paid out, and generally range in the different jurisdictions anywhere from 1 to 10 per cent., often graded according to the sums involved. So one must consult the local statutes or rules of court for detailed information along this line.

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CHAPTER IX.

ADMINISTRATION ACCOUNTS.

222. **General Remarks.** Part of the regular duties of the personal representative is to render accounts at regular intervals to the Probate Court until the administration has been completed. The system of probate accounting is simple enough and costs little unless some litigation should arise. Like the other documents connected with the settling of the estate, the administration accounts are made a matter of public record, after having been passed on by an auditor.

The object of these accounts is to show the court or anyone who may be interested at a glance what has happened to the funds of the estate from the day that the inventory was filed.

223. **The Form of Administration Account.** "In his probate account, it is usual for the executor or administrator, by way of general statement, to charge himself with the amount of assets which have come to his hands, and ask to be allowed for the amount of all debts and claims paid by him, together with the expenses of administration; the balance shown, if any, going over to the next account, or remaining finally for distribution."[1] A convenient form and one adopted in various States is that one given below on page 99.

The other form of administration account consists of a number of schedules, which are attached to a summary statement. The schedules give the information and items in detail, whereas the summary statement shows at a glance the exact status of the

[1] Schouler, Ex. sec. 524.

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estate. "The usual rules of single entry bookkeeping are followed, as to entering dates, parties, sums received or paid, and the like."[2]

"In many States blanks are supplied at the probate registry for the purposes of probate accounts." "The proper number of each administration account is stated on its face; a final account, moreover, should plainly purport to be such."[3]

The blank form given below on page 103 is that furnished by the Surrogate Court in the State of New York and is called "Account of Proceedings." In it is set forth a summary of a number of the most common schedules, but, as not every contingency that may arise in the settling up of an estate can be provided for in a form, it is necessary and proper for the personal representative to modify those given, and add others as the circumstances of the case may require. The general form of the account remains the same.

Beginning on page 107 the authors have given in detail an "Account of Proceedings" in a New York estate, giving a greater variety of schedules, and modifying in some slight respects, the form mentioned above.

224. **Amended Administration Account, Affidavit, etc.** Should the representative find after filing an administration account that he has made a mistake, then it is proper for him to file an amended account. All administration accounts must be sworn to by the personal representative, and if there should be more than one, some States require that the affidavit must be made by all of the representatives, and some by only one. The affidavit can be administered either by the Judge of the Probate Court, the Register of Wills, a Justice of the Peace or a Notary Public. In some States it is also necessary that each schedule of an account is signed by the personal representative.

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[2] Schouler, Ex. sec. 524.
[3] Schouler, Ex. sec. 524.

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225. **Illustrations of Administration Accounts.** (a) Form adopted in various States.

The First Administration Account of John Doe, James Black and John White, Executors under the Will of William Jones, Deceased.

These Accountants charge themselves with the amount of the Inventory of the Personal Estate of the said deceased.....$340,000 00

And with the following receipts and collections made by them, viz.:

1908.		
July 1.	6 mos. div. on 50 shares Chestnut Railway Co. stock...	25 00
1.	6 mos. div. on 200 shares National Bun Co. stock.....	200 00
1.	Cash from B. Black on acct. of his note.....	100 00
10.	Cash from C. Smith, balance due on lot at the S. W. Cor. White and Green Sts., sold by the testator during his lifetime.....	25,000 00
10.	Cash from Home Life Insurance Co. on policy No. 4,506,203, dated April 1, 1895, testator being the beneficiary.....	40,000 00
28.	Cash from P. G. & I. Q. Ry. returned for one ticket not used by the testator.....	10 00
28.	Cash from the National Development Co. in payment of two notes dated January 28, 1908, for $10,000 each.	20,000 00
28.	Cash for interest paid on the above.....	600 00
Aug. 8.	6 mos. interest on $50,000 U. S. 4% bonds.....	2,000 00
Sept. 1.	20 coupons, 6 mos. interest on $20,000 National Land Improvement Co. 6% Gold bonds.....	600 00
1.	Cash from S. Brown in full settlement of mortgage due the testator this date.....	5,000 00
1.	Interest paid on the above.....	125 00
1.	Profit on sale of 25 shares National Street Railway Co. preferred stock.....	100 00
Oct. 5.	Home Fire Insurance Co., return premium on fire policy No. 43, cancelled.....	50 00
5.	Rent collected from No. 329 P street.....	50 00
31.	Salary due the testator from the American Subway Co. to April 15, 1908.....	500 00
	Estate to be accounted for.....	$434,360 00

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And they crave allowance for the following payments and disbursements:

Voucher.	Date.			
1	April	30.	Funeral expenses of deceased, undertaker....	$200 00
2		30.	Funeral expenses of the deceased, physician.	100 00
3		30.	S. Jones, for services to estate.....	65 00
4		30.	L. Green, for services to estate.....	500 00
5	May	5.	Balance due on a contract entered into by the deceased for a painting.....	300 00
6		15.	Mary Jones, widow of deceased, 1-12 of annuity provided for in third item of will..	500 00
7		18.	General Bohemian Society, legacy under will of deceased, clear of tax, release attached..	2,000 00
8		20.	Fresh Air Society, legacy under will of deceased, free of tax, release attached.....	2,000 00
9		20.	Arctic Exploration Society, subscription entered into by the deceased.....	1,000 00
10		20.	Institute for the Poor, legacy under will of deceased, free of tax, release attached....	15,000 00
11	June	5.	Loss on sale of $3000 Rock Bottom Investment Co. Income bonds, sold at 80, appraised at 90.....	300 00
12		15.	Mary Jones, widow, 1-12 of annuity.....	500 00
13	July	5.	Loss on 122 shares stock of the Wildcat Gold Mining Co.....	5,070 00
14		5.	John Smith, legacy under will of deceased, $40,000, less collateral inheritance tax of 2½% on the above amount.....	39,000 00
15		5.	And for cash paid collateral inheritance tax on the legacy of $2000 to the General Bohemian Society, given by the ninth item of the will of the deceased clear of said tax...	50 00
16		5.	And for cash paid collateral inheritance tax on the legacy of $2000 to the Fresh Air Society, given by the ninth item of the will of deceased.....	50 00
17		5.	And for cash paid collateral inheritance tax on legacy of $1000 to the Arctic Exploration Society, given by the ninth item of will of deceased clear of said tax.....	25 00
18		5.	And for cash paid collateral inheritance tax on legacy of $15,000 to the Institute for the Poor, given by the ninth item of the will of deceased clear of said tax.....	375 00

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19		5.	And for cash paid collateral inheritance tax on value of annuity of $3 per week, as fixed by the court, given to Daisy Dane, under said 12th item, clear of said tax, this annuity to begin November 1, 1908; 2½% on $687.96.....	17 20
20		5.	And for cash paid collateral inheritance tax on the value of annuity of $30 per month, as fixed by the court, given to William Tickler, under said twenty-third item, clear of said tax, this annuity to begin November 1, 1908; 2½% on $1388.88.....	34 72
21		5.	Joseph Long, one month's wages, services to testator as valet.....	50 00
22		12.	Gas used at house.....	5 08
23		14.	National Monument Co., headstone at grave.	50 00
24		14.	National Cemetery Co., for lot.....	200 00
25		14.	D. Sharp, appraiser.....	380 00
26		14.	Water rent, 1908, at 329 P street.....	5 00
27		15.	6 mos. ground rent on leasehold property 329 P street.....	21 00
28		15.	Mrs. Mary Jones, widow, 1-12 of annuity...	500 00
—	Aug.	12.	And for household chattels distributed to Mrs. Mary Jones, widow of the deceased, as per sixteenth clause of will.....	8,000 00
—		12.	And for the following "fixtures" intended to go with the realty, and erroneously appraised with the testator's chattels, one mirror imbedded in wall.....	150 00
29		15.	Mrs. Mary Jones, widow, 1-12 of annuity....	500 00
30	Sept.	15.	Mrs. Mary Jones, widow, 1-12 of annuity....	500 00
—	Oct.	20.	And for the following securities set apart and retained by themselves as executors, to be held by them as such, in order, from the income thereof, to pay to Mary Jones, widow of said John Jones, deceased, an annuity of $6000 yearly during her natural life, as stipulated, to be paid to her from and after the death of the testator:	
			1 American Envelope Co. registered 50-year 6% gold bond, due in the year 1950, No. 4000, face value $150,000, appraised at 100..	150,000 00
31		20.	And for register's fees stating this account, copy, 3 releases, 15 orders of court and copies, and 2 reports of sales.....	100 00
32		20.	And for these accountants' (executors') commissions on $——— at 2%, waived except as to.....	1,500 00

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—	20.	And for amount distributed by the executors to themselves as trustees, to be held by them as such in trust for the benefit of Allen Jones, son of the testator, as per nineteenth item—	
		Cash.....$10,000 00	
		100 shares X. Y. Ry..... 3,000 00	
			13,000 00
—	31.	And for the following retained by these accountants (executors) at the appraised values thereof, for further distribution:	
		All that lot of ground in the city of A, beginning for the same northerly 38½ feet from the southeast corner of a frame house situate on the northeast corner L and P streets, thence 50 feet back to an alley, subject to an annual ground rent of $42; together with the improvements thereon, being a two-story brick dwelling, known as 329 P street.....	2,000 00
—	31.	And for the following retained by these accountants (executors) at the appraised values thereof, for further distribution:	
		50 shares, certificate 590, Chestnut Railway common stock, par 100, appraised 49.....	4,900 00
		200 shares National Bun Co. common stock, certificate No. 20, par 100, appraised 102...	20,400 00
		$50,000 U. S. 4% bonds, Nos. 1 to 50, inclusive, registered, appraised 104.....	52,000 00
		$20,000 National Land Improvement Co. 6% bonds, Nos. 50 to 70, inclusive, appraised at 100.....	20,000 00
		$5000 National Bonanza Co. 8% gold bonds, Nos. 17 to 23, inclusive, appraised.....	No value.
		$10,000 mortgage on house and lot known as 21 West Fifth avenue.....	10,000 00
		And for the cash balance in the hands of the executors for further distribution.....	83,012 00
			$434,360 00

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(*b*) Blank form furnished by the Surrogate Court in the State of New York:

In the Matter of the Judicial Settlement of the account of

Deceased.

} Account of Proceedings.

To the Surrogate's Court of the County of New York,

..... of the County of New York, do render the following account of ..... proceedings as .... of ..... deceased: On the ..... day of ..... 19... letters ..... were issued to ..... On the ..... day of ..... 19.... caused an inventory of the personal estate of the deceased to be filed in this office, which personal estate therein set forth amounts, by appraisement by the appraisers duly appointed, to $.....

SCHEDULE A, hereto annexed, contains a statement of all the property contained in said inventory, sold by .... at public or private sale, with the prices and manner of sale; which sales were fairly made by..... ..... at the best prices that could then be had, with due diligence, as ..... then believed; it also contains a statement of all the debts due the said estate and mentioned in said inventory, which have been collected, and also of all interest or moneys received by ..... for which ..... legally accountable.

SCHEDULE B, herto annexed, contains a statement of all debts in said inventory mentioned, not collected or collectible by ———

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together with the reasons why the same have not been collected and are not collectible; and also a statement of the articles of personal property mentioned in said inventory unsold, and the reasons of the same being unsold, and their appraised value; and also a statement of all property mentioned therein lost by accident, without any willful default or negligence, the cause of its loss and appraised value. No other assets than those in said inventory, or herein set forth, have come to ..... possession or knowledge, and all the increase or decrease in the value of any assets of said deceased is allowed or charged in said Schedules A and B.

SCHEDULE C, hereto annexed, contains a statement of all moneys paid by ..... for funeral and other necessary expenses for said estate, together with the reasons and object of such expenditure.

On or about the ..... day of ..... in the year 19...., ... caused a notice for claimants to present their claims against the said estate to ..... within the period fixed by law, and at a certain place therein specified, to be published in two newspapers, according to law, for six months, pursuant to an order of the Surrogate of the County of New York; to which order, notice and due proof of publication herewith filed, ... refer ..... as part of this account.

SCHEDULE D, hereto annexed, contains a statement of all the claims of creditors, presented to and allowed by ..... or disputed by ..... and for which judgment or decree has been rendered against ..... together with the names of the claimants, the general nature of the claim, its amount, and the time of the rendition of the judgment; it also contains a statement of all moneys paid by .... to the creditors of the deceased, and their names, and the time of such payment.

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SCHEDULE E, hereto annexed, contains a statement of all moneys paid to the legatees, widow, or next of kin of the deceased.

SCHEDULE F, hereto annexed, contains the names of all persons entitled as widow, legatee, or next of kin of the deceased, to a share of ..... estate, with their places of residence, degree of relationship, and a statement of which of them are minors and whether they have any general guardian, and if so, their names and places of residence, to the best of ..... knowledge, information and belief.

SCHEDULE G, hereto annexed, contains a statement of all other facts affecting ..... administration of said estate, ... rights and those of others interested therein.

..... charge ..... as follows:

With amount of Inventory..... $.....
" " " Increase, as shown by Exhibit A. $.....

..... credit ..... as follows:

With amount of Loss on sales, as per Schedule B. $.....
" " " Debts not collected, as per do... $.....
" " " Schedule C..... $.....
" " " Schedule D..... $.....
" " " Schedule E..... $.....
Leaving a balance of..... $.....

to be distributed to those entitled thereto, subject to the deductions of the amount of ..... commissions, and the expenses of this accounting. The said Schedules, which are severally signed by ..... are part of this account.

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In the Matter of the Judicial Settlement of the Account of

Deceased.

COUNTY OF NEW YORK, SS:

..... of .....
being duly sworn, say that the charges made in the foregoing account of proceedings and schedules annexed, for moneys paid by ..... to creditors, legatees and next of kin, and for necessary expenses, are correct; that ..... have been charged therein all the interest for moneys received by ..... and embraced in said account, for which ..... a ..... legally accountable; that the moneys stated in said account as collected were all that were collectible, according to the best of ..... knowledge, information and belief, on the debts stated in such account at the time of the settlement thereof; that the allowances in said decrease in value of any assets, and charges therein, for the increase in such value, are correctly made; and that ..... do not know of any error in said account or anything omitted therefrom which may in any wise prejudice the rights of any party interested in said estate. And deponent further say that the sums, under twenty dollars, charged in the said account, for which no vouchers or other evidences of payment are produced, or for which ..... may not be able to produce vouchers or other evidences of payment, have actually been paid and disbursed by ..... as charged; and that said account contains, to the best of ..... knowledge and belief, a full and true statement of all ..... receipts and disbursements on account of the estate of said decedent, and of all money and other property belonging to said estate which have come into

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..... hands, or which have been received by any other person by ..... or order of authority for ..... use, and that . ..... do ..... not know of any error or omission in the account to the prejudice of any creditor of or person interested in the estate of the decedent.

Sworn before me this ..... day of .... 19....

(*c*) "Account of Proceedings" in a New York estate.

COUNTY OF NEW YORK, N. Y.

In the Matter of The Judicial Settlement of the Account of James Smith, Executor of the Last Will and Testament of John Smith, Deceased.	Account of Proceedings.

To the Surrogate of the County of New York.

I, James Smith, of the Borough of Manhattan, City of New York, do render the following account of my proceedings as executor of the last will and testament of John Smith, deceased. On the 5th day of September, 1907, letters testamentary were issued to James Smith. On the 17th day of September, 1907, an inventory of the personal estate of the deceased was filed in this office, which personal estate therein set forth amounts by appraisement, by the appraisers duly appointed, to $827,151.00.

SCHEDULE A-1, hereto annexed, contains a statement of all the moneys collected by the executor, for the principal (corpus) account, for items not described in said inventory.

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SCHEDULE A-2, hereto annexed, contains a statement of all the property contained in said inventory (exclusive of the property described in Schedule N-1) sold by the executor and resulting in an increase over the appraised value thereof, which sales were fairly made by the executor at the best prices that could then be had, with due diligence, as he then believed. It also contains a statement of all the debts due the said estate and mentioned in said inventory, collected by the executor, which have resulted in an increase over the appraised values thereof.

SCHEDULE A-3, hereto annexed, contains a statement of all the property (including debts) contained in said inventory which has been sold or realized upon by the executor at the appraised value.

SCHEDULE B, hereto annexed, contains a statement of all debts mentioned in said inventory, remaining unsold or uncollected, with the appraised value thereof. No property mentioned in the inventory has been lost by the executor by accident or otherwise. No assets other than those mentioned in the said inventory, and the assets herein set forth, have come to his possession and knowledge, and all the increase or decrease in the valuation of the assets of said deceased is allowed or charged the executor in said Schedules A-2 and E.

SCHEDULE C, hereto annexed, contains a statement of all moneys paid by the executor for funeral and all other necessary expenditures chargeable to corpus.

On or about the 6th day of September in the year 1907 the executor caused a notice for claimants to present their claims against the said estate to him within the period fixed by law, and at a certain place therein specified, to be published in two newspapers according to law, for six months, pursuant to an order of the Surrogate of the County of New York; to which order, notice and due proof of publication herewith filed he refers as part of the account.

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SCHEDULE D, hereto annexed, contains a statement of all the claims of creditors presented to, and allowed by the executor, together with the names of the claimants, the general nature of the claim, and the amount thereof. It also contains a statement of all the sums paid by him to creditors of the deceased, and their names and the time of such payment. No claims presented by creditors have been disputed by the executor, and no judgements or decrees have been rendered against him.

SCHEDULE E, hereto annexed, contains a statement of all property contained in said inventory (exclusive of the property described in Schedule N-1) sold, or transferred by the executor, and yielding a less price than the appraised value thereof. The sales therein described were fairly made by him at the best prices that could then be had, with due diligence, as he then believed.

SCHEDULE F, hereto annexed, contains a statement of the moneys and specific legacies paid or delivered to the legatees by the deceased.

SCHEDULE G, hereto annexed, contains a statement of the stocks or securities set aside by the executor for the annuity trust funds described in the will of the testator and transferred and delivered to the executor in his capacity as trustee of these funds, with the market price thereof at the time of such delivery.

SCHEDULE H, hereto annexed, contains a statement of all the moneys, stocks and bonds paid, assigned, transferred and delivered by the executor to the Atlantic Trust Company, a company doing business in the city of New York, which trust company the executor appointed as trustee to receive a portion of the residuary estate under the provisions of the will, with the market price of such stocks or bonds at the time of transfer.

SCHEDULE I, hereto annexed, contains a statement of all the interest, dividends, rents and other items received by the executor as the income of the estate.

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SCHEDULE J, hereto annexed, contains a statement of the annuity paid by the executor to the annuitant described in the nineteenth clause of the will, prior to the setting aside of the trust funds therein described.

SCHEDULE K, hereto annexed, contains a statement of the taxes, fire insurance, and other items of expense paid by the executor from the income of the estate, and chargeable thereto.

SCHEDULE L, hereto annexed, contains a statement of the moneys arising from the income of the estate paid to the beneficiaries described in the fourteenth clause of the will.

SCHEDULES M-1, M-2, M-3, hereto annexed, contain a statement of all property received by the executor from the surviving partner of the firm of Smith & James, of which firm the testator was a member at the time of his decease (Smith & James 1907 liquidation), and exhibit respectively the property which has been sold or transferred by the executor, with the prices received therefor, and the property which is unsold and remains in his hands. The sales therein described were fairly made by him at the best prices that could then be had, with due diligence, as he then believed.

SCHEDULE N, hereto annexed, contains a statement of all persons entitled as widow, legatee or next of kin of the deceased, to a share of his estate, with their places of residence and degree of relationship. To the best of the executor's knowledge, information and belief all of said persons are of full age.

SCHEDULE O, hereto annexed, covers the action of the executor in respect to the real estate, of which the testator died seized.

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SUMMARY STATEMENT.

	Income.	Principal.
The Executor is chargeable with—		
Securities, etc.	$816,762 00	
Cash	10,389 00	
Property as per inventory		$827,151 00
Increase to principal, Schedule A-1		3,870 80
Increase to principal, Schedule A-2		7,640 70
Increase to principal, Schedule M-1 and 2 and 3		62,000 00
Increase to principal, Schedule A-3 (see contra.).		
Income derived from principal, Schedule I	$17,095 48	
	$17,095 48	$900,662 50
And he craves allowance for the following disbursements:		
Property sold or transferred		
As per Schedule A-3 (see contra.).		
E		$810 00
F	$628 00	15,000 00
G		69,000 00
H		150,000 00
Paid as per Schedule C		2,260 00
D		255 00
J	30 00	
K	614 48	
L	2,000 00	
Balance in the hands of the Executor for distribution as per will	13,823 00	663,337 50
	$17,095 48	$900,662 50
Corpus balance above consists of—		
Securities	$516,617 00	
Cash	146,720 50	
	$663,337 50	
Leaving a balance of Principal (corpus)		$663,337 50
Income		13,823 00
		$677,160 50

The said schedules which are severally signed by James Smith, Executor, are part of this account.

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SCHEDULE A-1.

Money collected belonging to the principal, accounted of this estate, not mentioned in the inventory.

Interest accrued to date of death, September 1, 1907, inclusive.

1907.		
Dec. 31.	Katherine White, 6% bond and mortgage, $6000, from July 1, 1907, 2 months	$60 00
Dec. 31.	United States 4% bonds, from 8/1/'07, $40,000, 31 days.	137 77
Dec. 31.	Madison Savings Bank, from June 30/'07, on dep. $800.	4 00
Dec. 31.	James Colt, 6 months' note, $100, dated 7/1/'07, 6%, 62 days	1 03

Dividends declared prior to, but payable after date of death.

Oct. 1.	American Tea Co., 36 shares, Div. 42, payable 10/1/'07	36 00
Sept. 15.	Debt from Henry Castle, omitted in inventory	1,500 00
Dec. 31.	Rent of 309 N St., 8/1 to 9/1/'07	32 00
Dec. 31.	United Light Co. bonds, int. 6%, 7/1 to 9/1, 2 months	600 00
Dec. 31.	American Land Co., int. 6% on bonds accrued from 7/1/'07 to 9/1/'07, 2 months	1,500 00
		$3,870 80

JAMES SMITH,
Executor.

SCHEDULE A-2.

Property sold or transferred by the Executor resulting in a profit or increase to the estate.

1907.				
Sept. 15.	60 shares White Oak Co., par 100 each—			
	Inventoried		$5,400 00	
	Sold at 92	$5,520 00		
	Less brokerage, ¼%	15 00		
			5,505 00	
				105 00

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Oct. 23.	Debt collected by Executor from Alfred Johnson, inventoried as of no value			200 00
Dec. 29.	John Janson's note for $2000, due Oct. 1, 1907, was inventoried as of no value. The full amount of the note with interest was collected (to Dec. 31/'07) by Black & Childs, they retaining 10% for collection fee. The amount added to principal is:			
	Amount of note	$2,000 00		
	Less 10%	20 00		
			$1,980 00	
	Interest from 3/1/'07 to 9/1/'07 at 6%	$61 33		
	Less 10%	6 13		
			55 20	
				2,035 70
Dec. 31.	40 U. S. bonds, par 1000 each—			
	Inventoried		$42,000 00	
	Sold at 118½	$47,400 00		
	Less brokerage, ¼%	100 00		
			47,300 00	
				5,300 00
	Total increase to principal of estate			$7,640 70

JAMES SMITH,
Executor.

SCHEDULE A-3.

Statement of personal property, including debts, sold or realized upon at appraised value.

1907.

Sept. 25.	10 shares Baltimore Match Co., par 100	$1,000 00
Oct. 7.	5 shares Central Trust Co., par 50	250 00
Nov. 12.	William Colt, open account, for services rendered	35 00
Dec. 31.	James Colt, 6 mos. note, dated 7/1/'07, for $100 at 6% (for interest see Schedule I and A-1)	100 00
		$1,385 00

JAMES SMITH,
Executor.

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SCHEDULE B.

All debts mentioned in inventory not collected, with appraised values thereof.

New York Equitable Society, being cash on deposit to secure insurance on house 106 Sixth avenue. This money may be withdrawn, subject to ten days' notice.....(Sperate). $300 00
George Gem, open account.....(Sperate). 66 00
William Gem, open account, $100.....(No value).
Garfield Black, 6 mos. note for $250.....(No value).

$366 00

JAMES SMITH,
Executor.

SCHEDULE C.

Funeral and other expenses of administration by Executor, chargeable to corpus.

1907.		
Sept. 20.	Dr. James Black, medical attendance.....	$500 00
Sept. 21.	James Horsey, carriages for funeral.....	20 00
Sept. 25.	Bailey Hughes, undertaker.....	150 00
Sept. 25.	Lot at Shadyside Cemetery.....	200 00
Sept. 25.	Fern & Co., florists.....	25 00
Oct. 2.	Drew & Drew, legal services.....	50 00
Oct. 2.	Wm. White and D. Sharpe, appraisers.....	100 00
Oct. 15.	John Dunn, accountant.....	300 00
Oct. 15.	Newspaper notices as required by law.....	15 00
Nov. 30.	Comptroller of New York, inheritance tax assessments..	900 00

$2,260 00

JAMES SMITH,
Executor.

SCHEDULE D.

Claims of creditors allowed by Executor and claims paid by him.

1907.		
Sept. 30.	John Wait, butler of testator, 1 month's wages.....	$35 00
Sept. 30.	Sarah Wait, cook of the testator, 1 month's wages.....	30 00
Sept. 30.	Alex. Drive, coachman of testator, 1 month's wages.....	40 00
Oct. 2.	Jones & Co., tailors.....	50 00
Oct. 14.	Dawson & Co., as per contract with testator.....	10 00
Oct. 20.	Smith & Co., bill 9/1/'07, coal and wood.....	15 00
Oct. 20.	Drew & Drew, legal services to testator.....	75 00

$255 00

JAMES SMITH,
Executor.

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SCHEDULE E.

Property contained in inventory sold or transferred by Executor at loss to the estate.

1907.			
Sept. 29.	15 shares National Company, Certificate No. 9—		
	Appraised at 40	$600 00	
	Transferred for 9 shares new stock worth on market 60	540 00	
			$60 00
Nov. 30.	200 shares Black Cat Mining Co. of Nevada, par 100—		
	Appraised 100	$20,000 00	
	Sold at 98	$19,600 00	
	Brokerage, ¼%	50 00	
		19,550 00	
			450 00
Nov. 30.	$3000 bonds Atlantic Car Co., 2670/2672—		
	Appraised at 30	$900 00	
	Receivers' certificates of deposit No. 2 received in exchange, worth 20%	600 00	
			300 00
			$810 00

JAMES SMITH,
Executor.

SCHEDULE F.

Specific legacies delivered to legatees under the will.

1907.		
Oct. 14.	Lucy Smith, niece of testator, 50 shares Amazon Railway Co., Certificate No. 9, appraised at	$5,000 00
Oct. 14.	Dividend No. 10 on the above declared Sept. 15/'09	500 00
Dec. 31.	John Smith, Jr., son of testator, leasehold property known as 309 N St., appraised at	10,000 00
Dec. 31.	Rent on above, 9/2-12/31/'07, 4 months	128 00
		$15,628 00

JAMES SMITH,
Executor.

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SCHEDULE G.

Annuity Trusts Created.

The Executor has turned over to himself as trustee the following securities for the purpose below given.

1907.

Dec. 31. $60,000 United Light Co. 1st Mortgage 6% registered bond No. 501, transferred from the Executor to himself as trustee, as per third clause of will, the same to be held in trust from January 1, 1908, from which date the income accruing thereon is to be paid in equal monthly sums of $250 each to William Smith, brother of the deceased, during his natural life. The income in excess of said annuity to be applied in payment of taxes and expenses in connection with principal, and finally disposed of (principal and excess income) as per said clause of will—
Appraised at 110.....$66,000 00

Dec. 31. $3000—Passbook No. 29, Savings Bank of B., transferred from the name of the Executor to himself as trustee for Alex. Drive, coachman of the deceased. $7.50 to be paid him (the annuitant) on the last of each month, beginning from date of testator's death, as per nineteenth clause of will. Same to be paid from the interest thereon..... 3,000 00

$69,000 00

JAMES SMITH.
Executor.

SCHEDULE H.

Property delivered to The Atlantic Trust Co. as trustee under the fourteenth clause of the will.

1907.

Dec. 28. $150,000 American Land Co. 1st Mortgage Registered 6% Bond No. 80, transferred as above, as per fourteenth clause of will, for the benefit of Helen Smith, widow of the testator—
Appraised at 100.....$150,000 00

JAMES SMITH.
Executor.

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SCHEDULE I.

Interest, dividends, etc., received by the executor.

1907.		
Sept. 24.	American Bun Co., dividend No. 56, $3.33⅓ on 3000 shares	$10,000 00
Sept. 30.	Amazon Railway Co., dividend No. 10	500 00
Oct. 15.	American Tea Co., dividend No. 43	36 00
Nov. 2.	Black Cat Mining Co., dividend No. 20	462 23
Nov. 28.	Black Cat Mining Co., extra dividend	1,065 00
Dec. 31.	Kath. White, interest on B. and M., 6%, 9/2-12/31/'07, 4 months	120 00
Dec. 31.	Madison Savings Bank, on deposit of $800, interest	8 16
Dec. 31.	Stokes & Co., for accrued interest on sale of 40 U. S. 4s, 9/2-12/31/'07, inclusive	537 77
Dec. 31.	John Jansen, interest on note, 9/2-12/31/'07, inclusive— 121 days, 6% $40 33 Less 10% collection 4 03	36 30
Dec. 31.	James Colt, interest on note 9/2-12/31/'07, 121 days, 6%	2 02
Dec. 31.	Rent, house 309 N St., 9/2-12/31/'07, 4 months	128 00
Dec. 31.	United Light Co., interest 6%, 9/2-12/31/'07, 4 months.	1,200 00
Dec. 31.	American Land Co., interest 6% on bonds, 9/2-12/31/'07, 4 months	3,000 00
		$17,095 48

JAMES SMITH,
Executor.

SCHEDULE J.

Annuities paid by the Executor.

1907.		
Sept. 30.	Alex. Drive, as per will	$7 50
Oct. 31.	Alex. Drive, as per will	7 50
Nov. 30.	Alex. Drive, as per will	7 50
Dec. 31.	Alex. Drive, as per will	7 50
		$30 00

JAMES SMITH,
Executor.

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SCHEDULE K.

Expense items, taxes, insurance, etc., paid by the Executor and chargeable to income.

1907.		
Sept. 10.	Collector of Taxes, personal, 1907	$453 48
Sept. 23.	Insurance premium for insurance on house of testator	70 00
Oct. 14.	Water rent, 1907	10 00
Dec. 31.	Gas bill to 12/31	16 00
Dec. 31.	Drew & Drew, services rendered	15 00
Dec. 31.	Sargent & Co., surveys, etc	50 00
		$614 48

JAMES SMITH,
Executor.

SCHEDULE L.

Paid to Mrs. Helen H. Smith (widow) on account of income, under fourteenth clause of will.

1907.		
Sept. 30.	As above	$500 00
Oct. 31.	As above	500 00
Nov. 30.	As above	500 00
Dec. 31.	As above	500 00
		$2,000 00

JAMES SMITH,
Executor.

SCHEDULE M-1.

Smith & James, 1907 Liquidation.

All property received by the Executor from the surviving partner.

1907.		
Nov. 14.	Cash in settlement	$50,000 00
Nov. 20.	Furniture, safes, etc	2,000 00
Nov. 25.	Patents	10,000 00
		$62,000 00

JAMES SMITH,
Executor.

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SCHEDULE M-2.

Smith & James, 1907 Liquidation.

Property sold or transferred by the Executor with prices received and showing balance of liquidation account remaining.

1907.

Nov. 30.	Furniture, etc.	$2,000 00
Dec. 2.	Patents.	10,000 00
		$12,000 00

JAMES SMITH,
Executor.

SCHEDULE M-3.

Smith & James, 1907 Liquidation.

Property received by the Executor still unsold and remaining in his hands.

1907.

Dec. 31. NOTHING on hand unsold.

JAMES SMITH,
Executor.

SCHEDULE N.

Statement of the names of all persons entitled, as legatees or otherwise, to a share in the estate of James Smith, deceased, with the degree of relationship and place of residence.

Helen H. Smith	Widow	124 S. 5th St.
John Smith	Son	309 N. St.
Lucy Smith	Niece	124 S. 5th St.
William Smith	Brother	Pokeville, Mass.
Alex. Drive	None	5 S. Jordan St.

JAMES SMITH,
Executor.

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SCHEDULE O.

Real Estate.

LOT AND IMPROVEMENTS IN THE CITY OF ..... STATE OF NEW YORK, known as 124 S. 5th St., bounded by Forrest, Long, White and 5th Sts.

Held by the Trustees for further sale as directed by the second clause of will.

JAMES SMITH,
Executor.

SURROGATE DECREE.

At Chambers of Surrogate's Court,
held in and for
.....
on the 24th day of February, 1908.

Present, Hon. .....,
Surrogate.

In the Matter of the Judicial Settlement of the Account of James Smith, executor of the last will and testament of John Smith, deceased.

James Smith, executor of the last will and testament of John Smith, deceased, having heretofore made application to the Surrogate of the County of ..... for a judicial settlement of his account as such executor and a citation having been thereupon issued pursuant to statute directed to all

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persons interested in the estate of said deceased, citing and requiring them, and each of them personally, to be and appear before the said Surrogate, at his office in the County of ..... on the 24th day of January, 1908, at 10.30 o'clock in the forenoon of that day, then and there to attend such judicial settlement; and the said citation having been returned with proof of the due service thereof on Helen H. Smith, John Smith, Jr., Lucy Smith, William Smith and Smith & James, copartners, and the said executor having appeared in person and by his attorneys on the return day of said citation; and the said executor having rendered his account under oath before said Surrogate; and the said account having been filed, together with the vouchers in support thereof, and no objections having been made to said account and the said matter having been duly adjourned to this day, the said Surrogate, after having examined the said account and vouchers, now here finds the state and condition of said account to be as stated and set forth in the following summary statement thereof, made by the said Surrogate, as judiciously settled and adjusted by him, to be recorded with and taken to be a part of the decree in this matter, to wit:

SUMMARY STATEMENT.

	Income.	Principal.
The Executor is chargeable with—		
Securities, etc	$816,762 00	
Cash	10,389 00	
Property as per Inventory		$827,151 00
Increase to Principal, Schedule A-1		3,870 80
Increase to Principal, Schedule A-2		7,640 70
Increase to Principal, Schedule M-1 and 2 and 3		62,000 00
Increase to Principal, Schedule A-3 (see contra)		
Income derived from Principal, Schedule I	$17,095 48	
	$17,095 48	$900,662 50

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And he craves allowance for the following disbursements:

Property sold or transferred as per Schedule A-3 (see contra).		
E		$810 00
F	$628 00	15,000 00
G		69,000 00
H		150,000 00
Paid as per Schedule C		2,260 00
D		255 00
J	30 00	
K	614 48	
L	2,000 00	
Balance in the hands of the Executor for distribution as per will	13,823 00	663,337 50
	$17,095 48	$900,662 50

Corpus balance above consists of—

Securities	$516,617 00	
Cash	146,720 50	
Leaving a balance of Principal (corpus)		$663,337 50
Income		13,823 00
		$677,160 50

And it appearing that the said executor has fully accounted for all the moneys and property of the estate of said deceased, which have come into his hands as such executor, and this account having been adjusted by the said Surrogate and a summary statement of the same having been made as above and herewith recorded:

It is hereby ordered, adjudged and decreed that said account be and the same is hereby finally and judicially settled and allowed as filed and adjusted.

And it is further ordered, adjudged and decreed that after the deductions have been made as above from the balance of both principal and income, the residue

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Balance above		$677,160 50
Less:		
Commission	$5,000 00	
Legal Expenses	8,500 00	
		13,500 00
		$663,660 50

of $663,660.50 be held in trust by James Smith, as trustee under the provisions of the 23d clause of will, the same to be for the benefit of Helen H. Smith, widow, as therein provided.

And it is further adjudged, that upon the payment by the said James Smith, of the said sums herein above adjudged by him to be paid, he be thereafter released and discharged as surviving executor of the last will and testament of John Smith, deceased (and upon filing with the Surrogate, the receipts of the respective parties for the amounts adjudged to be paid to them or other vouchers proving such payments), that an order to such effect may be entered without notice.

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CHAPTER X.

ESTATE ACCOUNTS IN DETAIL.

226. **Names of the Accounts.** The authors wish to call attention to the fact that the names applied to the different accounts in this book are, in some instances, very long. It is not the idea that one shall be compelled to use the same titles to arrive at the same results. The names were chosen with a view of conveying, at a glance, the substance of the accounts. Synonymous accounts, as far as their contents are concerned, often bear different names in different business houses, but this does not change the principle on which the entries are made. So if you find it easier to use a shorter or a different title do so. All we are trying to do is to place before you with clearness the matter treated.

Nor is it intended that the accountant should limit himself to the accounts as mentioned herein. Expense a/c may, if desired, be split up into a number of accounts for mere statistical reasons, or for instance Residuary Legatees' a/c could be dispensed with and an account opened for each such legatee. These are mere trivial details entirely optional with those doing the accounting, the principles governing one also govern the other.

227. **Illustrations of Entries Explained.** The illustrations of entries given in this book are divided into those classed as "cash-book" entries and those classified as "journal" entries. This distinction has been made because all entries are commonly known in accounting books as "journal" entries.

In corporations cash is often journalized, the cash receipts being kept in a cash-book, each general ledger account having a separate column in such cash-book. Disbursements are treated in a like

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manner either through or by use of the tabular or voucher system. At the end of the month the totals of these columns are entered directly on the general ledger. Hence in accounting books it is common and correct usage to class all entries as journal entries. In this book, however, the authors have generally separated this, giving for cash-book entries (with unimportant exceptions) illustrations of the entries exactly as they would appear in the cash-book, thereby conveying a clearer impression to the eye, and enabling a quicker perception of the problem presented.

228. **Division of Executors' Cash as Between Corpus and Income.** All receipts of cash are debited to the Executors' Cash a/c from whatever source received. It is imperative that the personal representative should know just what proportion of this cash is corpus and what income. Moreover, it may be necessary to ascertain what part of this income may be ordinary or for the general use of the estate; and what may be special or belong exclusively to the specific legatee.

As we have actually on the ledger an Estate Income a/c to which are credited all receipts of cash consisting of ordinary income, and also a Specific Legatees' Income a/c to which are credited all receipts of cash which have accumulated on the specific legacy since date of death of the testator, it can readily be ascertained what portion, if any, of the Executors' Cash a/c is corpus by deducting the net credit balances of the Estate Income a/c and of the Specific Legatees' Income a/c, if there be any, from the Executors' Cash a/c.

For a concrete example, let us suppose that the Executors' Cash a/c shows a debit balance of $500; that the Estate Income a/c shows a net credit balance of $200, and that the Specific Legatees' Income a/c shows a net credit balance of $100. By deducting from the debit balance of the Executors' Cash a/c the total of net credit balances of the two income accounts we get a balance of $200,

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or the amount the Executors' Cash a/c owes to the corpus of the estate.

229. **Division of Trustees' Cash A/C as Between Corpus and Income.** The underlying principles of double-entry bookkeeping take care of this division without making it necessary for such division to be actually made on the books.

In trust funds there are three accounts in which cash is concerned—

..... Trust Cash a/c (prefix individual's name).
..... Trust Income a/c (" " ").

The debit offset to which is Trustees' Cash a/c.

The first mentioned account represents corpus, the second income and the third both corpus and income. Therefore, the credit balance of either of the first two mentioned accounts deducted from the Trustees' Cash a/c will show the division as between corpus and income.

Actual separation of the Trustees' Cash a/c would be cumbersome and absolutely useless, and would, in all probability, lead to many errors. The theoretical division, however, should be understood in ascertaining the relationship of the accounts.

230. **Separation of Executors' and Trustees' Cash.** Executors are often requested and empowered by will to act as trustees for certain funds left in trust. In such cases they are both executors and trustees, if only for a short time.

Now the question presents itself whether two bank accounts should be opened at the time when such representative assumes both offices—one for the executors and the other for the trustees. Undoubtedly it is correct to do so, as the executors should not infringe on the trustees' cash, funds, or income, and vice versa. In any event, however, a separation should be made in the books whether one bank account in the name of the estate is kept for both, or whether separate bank accounts are kept.

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As it is useless trouble for the executor to keep a separate set of books for the trusteeship, the question is how to keep the accounts in such a manner as to show, in one set of books, what cash belongs to the estate (executor) as distinguished from that which belongs to the trustees.

Therefore, should it devolve upon you to handle the accounts of both executors and trustees at the same time, use your regular cash-book with two columns to each page. On the debit side of the cash-book head the first column "executors" and the second column "trustees," and then on the credit side of your cash-book do the same thing. Now the following illustrations based on the above simple method will show that a complete separation is attained regardless as to whether one or two bank accounts are kept.

Unless you have this, or a similar method, to separate your accounts you will have to take off a trial balance and make up your balance sheet before you will be able to ascertain the division of the cash between the executors and trustees.

The cash-book kept in the manner as per following illustration shows the division at all times:

CASH. DECEMBER, 1906.

	Executors.	Trustees.		Executors.	Trustees.
To Bal. in B'k.....	$100 00	$200 00	By Expense a/c office rent.....	$20 00	
" Interest a/c div. on 15 shares ABC Co. stock.	40 00		" Expense a/c Salary of clerks...	60 00	$35 00
" Interest a/c 6 mos. int. on mortg.....	200 00		" Expense a/c sundries per petty cash book voucher No. 1..	85 00	15 00
" B. Smith, Trust Income a/c Div. on 500 shares RB Ry. stock...		500 00	" B. Smith, Trust Income a/c Paid him on a/c of income due him.		400 00
" C. Black, Trust Income a/c 6 mos. int. on 50 5% U. S. Bonds.		1,250 00	" C. Black, Trust Income a/c Paid him on a/c of income due him.		1,000 00
			" Balance in Bank and on hand....	175 00	500 00
	$340 00	$1,950 00		$340 00	$1,950 00

CASH. JANUARY, 1907.

	Executors.	Trustees.
To Balance.....	$175 00	$500 00

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231. **Explanation.** Post the items in the regular manner to the ledger. Then open an account in the ledger entitled, Executors' Cash a/c. Post to the debit of this account in the ledger the total of the executors' debit column in the cash-book, less the previous month's balance brought down (in other words, with the total receipts for the month), which in the last illustration would be $240.00.

Post to the credit of the Executors' Cash a/c in the ledger the total of the credit column in the cash-book, less the current month's balance (in other words, with the disbursements for the month), which, in this case, would be $165.00. Now the Executors' Cash a/c last month (November) showed a debit of $100 (as per balance brought down December 1st) and this month (December) will show $175.00 (as per balance brought down January 1st, 1907). It is the same process each month.

Now open an account in the ledger entitled Trustees' Cash a/c and treat this account in the identical manner as the Executors' Cash a/c, using, of course, the trustees' column of the cash-book.

Remember, however, when posting the totals of the cash-book columns, to

(1) Post to the debit of the respective cash accounts in the ledger, only the actual receipts.

(2) Post to the credit of the respective cash accounts in the ledger only the actual disbursements.

The above is ascertained in each case by deducting the balances brought down at the first of the month and the last of the month from the totals of the respective debit and credit columns, no matter whether the balances are debit or credit balances.

232. **If Executors Overdraw Their Proportion of Cash.** If only one bank account is kept, and the executors should overdraw their proportion of the cash (the estate portion) then the cash-book would show this at once by reason of a credit balance in the

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executors' column, and yet the bank account might not be overdrawn. Consequently the executors can, by this cash-book, see at once when they are using cash belonging to the trustees, and they should immediately take steps to make up this deficit.

For instance, let us suppose that the executors have overdrawn their proportion of the cash for estate expenses, and their cash shows a credit balance of $50.00, and the trustees' column in the cash-book shows a debit balance (cash balances are always debit balances, unless the account be overdrawn) of $200. Then the bank-book would, of course, show the net balance of $150.00.

233. **Illustration.** The following illustration based on the above shows how such a cash-book will detect and divide any overdraft on the other's cash portion. This is important, for a trustee is not supposed to spend a cent of the money in his care or even invest the same, unless he has an order of the court to do so. If the ordinary cash-book is kept where executors' and trustees' cash and accounts are concerned, a balance sheet would have to be prepared, and its accuracy determined before it is possible to make this division. The date and folio posting columns are omitted from the illustration, as these are not necessary to make the point clear. The prefixes "To" and "By" are optional with the person keeping accounts. The tendency is now to drop them as being useless.

CASH.

	Executors.	Trustees.
To Balance 11/1.....	$200 00	$200 00
11/30 To Balance, Executors' Cash overdrawn.....	50 00	
	$250 00	$200 00

NOVEMBER, 1906.

	Executors.	Trustees.
By Estate Exp. a/c Pd. taxes.....	$250 00	
By Balance 11/30.....		$200 00
	$250 00	$200 00

CASH.

	Executors.	Trustees.
To Balance 12/1.....		$200 00
To Estate Income a/c, Rents.....	$300 00	
	$300 00	$200 00

DECEMBER, 1906.

	Executors.	Trustees.
By Balance 12/1 (overdrawn last month).....	$50 00	
By Balance 12/31.....	250 00	$200 00
	$300 00	$200 00

CASH.

	Executors.	Trustees.
To Balance 1/1.....	$250 00	$200 00

JANUARY, 1907.

	Executors.	Trustees.

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It will be seen that the executors received three hundred dollars during December, which left the executors' cash replenished. This is very likely to occur at times, especially as the division of the estate is nearing its end, and therefore this form of cash-book is a clear and concise method of obtaining information at any time during the month without the labor of closing the cash, posting to the ledger, taking a trial balance, and finally making a balance sheet.

ESTATE CORPUS A/C.

Showing the Corpus Estate and Its Distribution.

Applicable to Executors.

234. **General Remarks.** This account is a very important one; it shows the total personal estate received from the decedent (as far as the actual value in hand is concerned), the amount of estate distributed and the total corpus expenses. It is practically a Profit and Loss a/c for all the corpus subsidiary accounts. The items posted to this account should be self-explanatory, for example, "Expense a/c," this item showing the total expenses paid up to the date when transferring the balance of Expense a/c into Estate Corpus a/c.

235. **What This Account Should Contain.** The credits to this account consist of the estate per inventory (personalty) as of the date of death. When the books are closed pending the rendering of the administration accounts to the court, Contracts Payable a/c, Expense Corpus a/c, Specific Legatees' a/c, General Legatees' a/c, etc., will be charged to this account. And for the credits,

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Debts Receivable a/c (three classes).
Corpus Interest a/c.
Corpus Dividends a/c.
Corpus Rents a/c.
Loss and Gain on Corpus Sales a/c (if a gain)

will be found in this account. All of these transfers, unless made sooner, being as of the date to which the administration account extends, the books being closed as of that date.

236. **Opening Entry.** The opening entry occurs on receipt from the court of a copy of the inventory on which is given the appraised valuations which serve as a basis for the accounting throughout the administration.

Cash-Book Entry:

Executors' Cash a/c	$2,000 00	
To Estate Corpus a/c		$2,000 00
Being the cash in bank as per inventory.		

Journal Entry:

Household Chattels a/c	$500 00	
Estate Investments a/c	2,500 00	
Leasehold Property a/c	4,000 00	
Mortgages Receivable a/c	2,000 00	
To Estate Corpus a/c		$9,000 00

The two above entries could be consolidated and made through the journal, but if done the two thousand dollars should not be posted from the cash-book to the ledger, as you would then have two postings of the one item. The above items are the ones most generally found on inventories, and the values given are supposed to be the appraisement by the appraisers.

237. **Should Be Charged With.** The debits to this account consist first of all debts, contracts, etc., contracted by the decedent and his personal representatives; no charge should be entered on the books, however, until payments are made. All charges to this account should be carried in subsidiary accounts, and when ready

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to render your administration account to the court the balances of these various subsidiary accounts should be transferred to this account. Therefore, this account will be charged with the balances of the following accounts and items:

Household Chattels a/c.
Loss and Gain on Corpus Sales a/c (if a loss).
Expense Corpus a/c.
Contracts Payable a/c.
Funds Transferred to Trustees.
Specific Legatees' a/c.
General Legatees' a/c.
Executors' Commissions (on corpus).
Residuary Legatees' a/c.

238. **Should Be Credited With.** The credits to this account are, of course, the property as per inventory, etc., the debit offset to which is clearly shown in section 236. There are some accounts, however, the credit balances of which would close into this account:

Corpus Interest a/c.
Corpus Dividends a/c.
Corpus Rents a/c.
Sperate Debts Receivable a/c.
Doubtful Debts Receivable a/c.
Desperate Debts Receivable a/c.
Loss and Gain on Corpus Sales a/c (if a gain).
Trust Funds reverting to estate at expiration of trust.

When journalizing to the Estate Corpus a/c do not use the word "sundries" as you would ordinarily do where there are several items against one account, but take the space and time to itemize on this account in just the same manner as you posted the debits of the journal entry, *i. e.*, giving each "sundry" a line and a name.

239. **Closes Into.** This account, as payment of debts, legacies, and final distribution is made, gradually closes itself out. When this account is closed all other estate accounts (except trust accounts) will also have been closed.

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240. **Applicable to Administrators.** The rules given herein are generally applicable to the administrator. The latter is not interested in legacies, annuities, trust funds, etc. Therefore, due allowance should be made by or for the administrator, for such items in which he is not, and could not be interested.

ESTATE CORPUS A/C.

Dr.		*Cr.*	
To		By	
Contracts Payable	a/c	Executors' Cash	a/c
Expense Corpus	"	Household Chattels	"
Loss and Gain on Corpus Sales	"	Estate Investments	"
Household Chattels	"	Leasehold Property	"
Specific Legatees'	"	Mortgages Receivable	"
Pecuniary Legatees'	"	Corpus Dividends	"
Executors' Commission	"	Corpus Interest	"
Residuary Legatees'	"	Corpus Rents	"
Trust Security (prefix name)	"	Sperate Debts Receivable	"
Executors' Cash	"	Doubtful Debts Receivable	"
		Desperate Debts Receivable	"
		Loss and Gain on Corpus Sales	"
		Trust Security (prefix name)	"

EXECUTORS' CASH A/C,

Representing Assets.

Applicable to Executors.

241. **General Remarks.** In the illustrations of cash-book entries given, it will be noted that two columns are provided, one for the executor and the other for the trustee. Where, under the will, there is no trustee, a column for this latter office need not be considered.

242. **What This Account Should Contain.** This account contains only cash belonging to the estate in the hands of the executor. See article in this book on "Separation of Executors' and Trustees' Cash" (Chapter X, sec. 230).

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243. **Opening Entry.** Take that part of the inventory rendered to the court showing the cash in banks and the cash on hand, if any, and make your entry in the cash-book, assuming

$500.00 in First National Bank.
$500.00 in Second National Bank.
$50.00 cash on hand.

CASH-BOOK.

	Executors.	Trustees.		Executors.	Trustees.
To Estate Corpus a/c:					
1st Nat.....$500					
2d Nat..... 500					
On hand.... 50					
——$1,050 00					

Now the posting to the credit of Estate Corpus a/c in the ledger can be done at once, but the charge to Executors' Cash a/c in the ledger should be made at the end of the month, when closing the cash-book, by posting the total receipts for the month to the debit of Executors' Cash a/c. Now assuming that only $200.00 more was received during the month—

CASH-BOOK.

	Executors.	Trustees.		Executors.	Trustees.
To Estate Corpus a/c:			By Balance.....$1,250 00		
1st Nat.....$500					
2d Nat..... 500					
On hand.... 50					
——$1,050 00					
To Interest and Div. a/c:					
Interest..... 200 00					
	$1,250 00			$1,250 00	
To Balance.....$1,250 00					

Now the total "receipts" for the month are $1250.00. Post this at the end of the month to the debit of Executors' Cash a/c in the

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ledger, putting the folio number under the total of the column in the cash-book. It will be observed that in this instance there was no balance brought down from the previous month, as the cash-book was only started during the current month, the total of the debit column comprising actual receipts for the month.

244. **Should Be Charged With.** The debits to this account are the total actual receipts as per cash-book for the month. From the total of the debit column of the cash-book deduct the balance brought down from the previous month, the remainder being the actual receipts. See that your cash-book balances correctly before posting this item.

245. **Should Be Credited With.** The credits to this account are the total actual disbursements for the month. The total of the credit column of the cash-book, less the current balance brought down to the next month, will give the actual disbursements, unless the balance of the previous month was a credit balance (cash being overdrawn), in which event also deduct such balance. When posting the same put under the total column the folio number of the account in the ledger. This will show that posting has been done from that total.

246. **This Account Closes.** This account will close only when all the cash has been disbursed. Therefore, when rendering your administration accounts to the court, rule this account off and bring the balance down.

247. **Applicable to Administrators.** The rules given in the preceding sections for the executor will also apply to the administrator.

EXECUTORS' CASH A/C.

Dr.	*Cr.*
To Total receipts of corpus and income cash as per inventory and cash-book.	By Total disbursement of corpus and income cash as per cash-book.

The cash-book should be closed at the end of each month, and one posting made for the total receipts and one for the total disbursements.

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HOUSEHOLD CHATTELS A/C,

Representing Assets.

Applicable to Executors.

248. **General Remarks.** This account is directly subsidiary to Estate Corpus a/c.

249. **What This Account Should Contain.** That portion of the inventory rendered to the Probate Court covering "Household Chattels" composes this account; such items are furniture, ornaments, pictures, carpets, jewelry, silverware, carriages and carriage horses, chinaware, etc. But in any event, this account should contain only those articles that appear in the inventory under this heading and the valuation placed upon the books must be based on that given by the appraisers in said inventory.

250. **Opening Entry.** This account is opened simultaneously with Estate Corpus a/c. Assuming the inventory to show a total of $500 for the "Household Chattels."

Journal Entry:

Household Chattels a/c	$500 00	
To Estate Corpus a/c		$500 00

Being all household chattels and the value of same as per inventory filed in court.

The date of the above journal entry should be as of the day of death of the decedent.

251. **Should Be Charged With.** Ordinarily, this account is charged only once, *i. e.*, as cited in the preceding section. But if the court instructs you to render an additional inventory for chattels left out of the original inventory by error, or if an error of appraisement is discovered in the original inventory figures, and a correction is ordered (the correction being an increase in the figures), then charge this account with such additions, or increase in value, as per court's figures, and credit Estate Corpus a/c with a like amount.

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252. **Should Be Credited With.** The credits to this account occur when distribution of the chattels is made, or when a mistake has been made, the correction of which causes a reduction of the original inventory valuation. In any event the following entry is in order:

Journal Entry:

Estate Corpus a/c.
To Household Chattels a/c.

Thus charging the estate for the distribution or reduction, and crediting this account with a like amount.

Household chattels, under the will, generally go to the residuary legatees (the children and wife), and should it be desired for any reason to show just what each one received of these chattels the following entries may be made instead of the preceding one:

Journal Entry:

Estate Corpus a/c	$500 00	
To Residuary Legatees' a/c		$500 00
J. Brown	$200 00	
S. Brown	220 00	
A. Brown	80 00	

Showing that these chattels have been transferred from the estate and placed to the credit of the respective legatees.

Then—

Journal Entry:

Residuary Legatees' a/c	$500 00	
J. Brown	$200 00	
S. Brown	220 00	
A. Brown	80 00	
To Household Chattels a/c		$500 00

This entry showing that the chattels have been distributed and the legatees charged with such delivery.

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253. **This Account Closes.** When all the chattels have been distributed this account closes. As shown in section 252, this account can be closed, as and when distributed, into either Estate Corpus a/c, or into Residuary Legatees' a/c, the former entry being the one mostly used, the latter entries being the more correct ones. In the former case you have one journal entry to make, and in the latter two.

254. **Applicable to Administrators.** All remarks in the preceding sections apply to the administrator. Where the account "Residuary Legatees" occurs, substitute "Heirs-at-Law a/c."

Household Chattels a/c.

Dr.			*Cr.*	
To			By	
Estate Corpus	a/c		Estate Corpus	a/c
			Residuary Legatees'	"

Estate Investments A/C.

Representing Assets.

Applicable to Executors.

255. **General Remarks.** Where bonds, stocks, etc., of an estate are of any volume it is best to keep an account as above in a general way, *i. e.*, not to attempt to itemize the different stocks, bonds, etc., but simply in the opening entry to debit this account with the total value of the securities as per inventory. Then in a separate book keep the details of this account. See article on "Investments Record Book" (page 270). This latter book or record should, of course, be balanced with the Investments Account in the general ledger at certain intervals to insure the accuracy of your records.

256. **What this Account Should Contain.** In this account should appear on the debit side, bonds and loan certificates of govern-

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ments, municipalities, etc., and corporation bonds, stock, scrip, certificates of stock or bond deposit, and paper of the same tenor and class. The total value of these as per inventory should be posted in one lump sum and an "Investments Record Book" kept as hereinbefore mentioned and described on page 270.

257. **Opening Entry.** This account is opened simultaneously with Estate Corpus a/c. For instance, suppose that portion of the inventory rendered to the Probate Court covering securities as mentioned above shows a total of $40,000.00, then the opening entry would be:

Journal Entry:

Estate Investments a/c	$40,000 00	
To Estate Corpus a/c		$40,000 00

Date this entry as of the day of death. It places the securities on the estate books at the inventory valuation. Moreover, it charges the Estate Investments a/c (which is an asset account), and credits Estate Corpus a/c (which is a liability account).

Should the executor come into possession of any securities after filing his inventory, which, through some circumstance he did not include in his original inventory, he should get the court to appraise the same. Then it is generally necessary to file an additonal inventory. Having obtained a valuation, an entry as above should be made, and full explanation given.

258. **Profits on Sales of Investments.** Should the executor require cash to defray the expenses of his administration, etc., or to pay legacies, he may request the court's permission to sell certain specified stocks, bonds, etc. Should the court sanction this, and he sell, then such sale must afterwards be ratified. Assuming that he sells ten shares of R. R. preferred stock at 95, the same having been appraised at 90, and receives cash $948.75 ($950.00 less $1.25 brokerage), then make entry in

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CASH-BOOK.

	Executors.	Trustees.		Executors.	Trustees.
To Estate Investments a/c:					
10 shares R. R. Pfd., $90.....$900 00					
To Loss and Gain on Corpus Sales a/c:					
Profit on above sale.....	48 75				

This entry made in the cash-book charges the Executors' Cash a/c (see article on "Separation of Executors' and Trustees' Cash" Chapter X, sec. 230) with the cash received from the sale, and Credits Investments' a/c with the inventory value of these securities, the profit on the sale ($48.75) being credited direct to Loss and Gain on Corpus Sales a/c. Remember, that when you credit Estate Investments a/c to do so at the inventory value of the particular securities you are handling, because the Loss and Gain a/c will take care of either a loss or gain on such sales.

259. **Losses on Sales of Investments.** Assuming that the executor has received the sanction of the court to sell 10 shares of A. C. Co. common stock in order to raise cash. Also assuming the same to be appraised as per inventory at 30, and sold at 25, cash received being $248.75 ($250.00, less $1.25 broker's commission) make entry in

CASH-BOOK.

	Executors.	Trustees.		Executors.	Trustees.
To Estate Investments a/c for sale of 10 shares A. C. Co. com. at 30 (see contra entry for loss)..$300 00			By Loss and Gain on Corpus Sales a/c:		
			Loss on 10 shares A. C. Co. com. Sold at 25. Appraised, 30. Broker, $1.25. (See contra)..	$51 25	

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The above entry in the cash-book charges the Executors' Cash a/c $300.00 and credits Estate Investments a/c with a like sum, this being the inventory valuation. But we have seen that the stock was sold at a loss under the appraisement of $5.00 per share, plus the broker's commission of $1.25, making a total loss of $51.25. By glancing at the credit side of the cash-book we see that the Executors' Cash a/c has been credited, and Loss and Gain on Corpus Sales a/c charged with the loss. The actual cash received could have been entered in the cash-book, and journal entry made for the difference, but the entry as given above in the cash-book is the plainest and best of the two. In any event, you must credit Estate Investments a/c with the inventory valuation and make the Loss and Gain on Corpus Sales a/c, together with the Executors' Cash a/c, bear the difference.

260. **Re-investments.** Assuming the executor to have too much cash on hand lying idle, and, having obtained the court's permission to invest $10,000.00, 100 shares of Sand Bank are purchased at 99, commission $12.50, making the total disbursement $9912.50 for these shares. Do not charge the commission against the stock, but charge it to Expense Corpus a/c; the broker's commission for selling stocks is charged to the estate, and there would be absolutely no use tacking a small fractional value on to the buying or purchase value of these stocks. If you do charge this broker's commission against the stocks, you will have in your Estate Investments a/c so many stocks at say 99, but the calculation will not be correct. If you sell a part of this lot again you will have to split up the commission among the shares, and in fact you will always have to be making calculations to find out how much of the stock is on hand and how much has been sold.

NOTE.—Where bonds are bought or received subject to an adjustment of interest, this interest should, of course, be charged to the same account which will receive credit for the interest at maturity of the coupons or period so adjusted.

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CASH-BOOK.

	Executors.	Trustees.		Executors.	Trustees.
To Balance...	$14,000 00		By Estate Investments a/c: 100 shares Sand Bank at 99...	$9,900 00	
			By Corpus Expense a/c: Brokerage on above.....	12 50	

This entry in the cash-book charges the Estate Investments a/c with the purchase and charges Expense Corpus a/c with the broker's commission, Executors' Cash a/c being credited by use of the total column.

261. **Specific Legatees.** Assuming the testator to have left a specific legacy of 100 shares of R. R. common to J. Brown and 50 shares R. R. preferred to A. Jones, the former stock appraised per inventory at 100, and the latter also at 100. Specific legacies should be given to the specific legatees just as soon as the court's permission to do so can be obtained. (See article on "Legacies," Chapter VIII).

Journal Entry:

Estate Corpus a/c.....	$15,000 00	
To Specific Legatees' a/c.....		$15,000 00
J. Brown.....	$10,000 00	
A. Jones.....	5,000 00	

When posting this to Specific Legatees' a/c put down Brown's amount and Jones' amount in such a manner that it can be seen at a glance what, and how much each one received. The above entry shows that these stocks were taken from Estate Corpus a/c and put to the credit of the respective specific legatees. Now, when you deliver these stocks make

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Journal Entry:

Specific Legatees' a/c	$15,000 00	
J. Brown	$10,000 00	
A. Jones	5,000 00	
To Estate Investments a/c		$15,000 00

Being 100 shares R. R. common, appraised at 100; being 50 shares R. R. prfd., appraised at 100; delivered to J. Brown and A. Jones as per will and inventory valuation.

262. **Reservations to Guarantee Annuities.** The testator may bequeath certain annuities to be paid to certain persons during their lives, and, if no special fund is named out of which the annuity shall be paid, then the court will probably require certain stocks and bonds to be set aside in sufficient amount to guarantee such annuity or annuities. Now, suppose the following stocks were set aside to create certain annuities, say $500.00 to J. Brown, $300, to A. Jones

200 shares A. B. C. prfd. at 105 (as per inventory).
100 shares D. E. F. prfd. at 110 (as per inventory).

Journal Entry:

Executors' Annuity Investments a/c	$32,000 00	
To Estate Investments a/c		$32,000 00

Being stocks as above transferred from Estate Investments a/c to Annuity Investments a/c.

It is better to take these stocks out of Estate Investments a/c for the reason that the estate's title to them is tied up for the present. It is a contingent title so far as the free use of these stocks is concerned. It is also a distribution of these stocks for the time being. Therefore, it is better to put them into a separate account, which shows at once what these stocks are doing. Now when the death of either of the annuitants occurs, just reverse the above entry and distribute as per will.

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263. **Residuary Legatees.** If, after the disposition of the property to legatees, etc., the will states that the balance of the estate (the residue) be divided among the children of the testator in equal shares, etc., then these children would constitute the residuary legatees, they being entitled to the residuum of the estate. Now assuming that after payment of debts, legacies, expenses, etc., of the estate, $3000.00 remains in investments for them, they to receive the same outright—

Journal Entry:

Estate Corpus a/c	$3,000 00	
To Residuary Legatees' a/c		$3,000 00
C. James	$1,000 00	
B. James	1,000 00	
E. James	1,000 00	

Showing the residue of the estate in stocks placed to the credit of the residuary legatees, and Estate Corpus a/c is charged with the transfer.

Then—

Journal Entry:

Residuary Legatees' a/c	$3,000 00	
C. James	$1,000 00	
B. James	1,000 00	
E. James	1,000 00	
To Estate Investments a/c		$3,000 00

being the residue of the investments delivered to the legatees as per will. As this is supposed to be the residue of the investments, the Estate Investments a/c should now close.

264. **Residue in Trust.** Refer to the section just preceding this one, and suppose that instead of stocks, etc., being given to the children outright, they were given in trust, the executors of the estate to act also in the capacity of trustees.

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Journal Entry:

Estate Corpus a/c	$3,000 00	
To C. James, Trust Security a/c		$1,000 00
B. James, Trust Security a/c		1,000 00
E. James, Trust Security a/c		1,000 00

This entry shows Estate Corpus a/c charged with the inventory value of the stocks, etc., and shows the different individuals or life tenant trust security accounts credited.

Then—

Journal Entry:

Trustees' Investments a/c	$3,000 00	
To Estate Investments a/c		$3,000 00

This entry showing that the trustees charge themselves with the transfer, the executors being thus relieved of a like amount charged them, being stocks as per inventory value.

265. **Special Remarks.** We have seen that the principle of this account is to gradually close itself out, and to do this we first charge the account as per inventory with all the stocks and bonds, etc. Then as we part with these stocks we credit the account at the same valuation as originally charged, leaving other accounts (Loss and Gain on Corpus Sales a/c, and Executors' Cash a/c) to take care of the losses or profits. Stocks, bonds, etc., except in payment to specific and residuary legatees, are not generally distributed. This article will be found applicable to any question of entries concerning this account which may ordinarily arise.

266. **Applicable to Administrators.** Administrators have no will to go by, and cannot become testamentary trustees, hence some of the aforegoing remarks do not apply to them. Thus, in sections 258, 259 and 260 the administrator would not have to separate his cash, as it would all be Administrators' Cash a/c. Sections 261, 262 and 264 would not enter into administrator's accounts at all. In section 263 "Heirs-at-Law a/c" should be substituted for Residuary Legatees' a/c. Distribution to them would have to be made as per order of court.

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Estate Investments a/c.

Dr.		*Cr.*	
To		By	
Estate Corpus	a/c	Executors' Cash	a/c
Executors' Cash	"	Specific Legatees'	"
Executors' Annuity Investments	"	Executors' Annuity Investments	"
Trustees' Investments	"	Residuary Legatees'	"
		Trustees' Investments	"

Mortgages Receivable A/C.

Representing Assets.

Applicable to Executors.

267. **General Remarks.** This account is used only when mortgages left by the decedent are returned in the inventory rendered to the Probate Court as "mortgages" and not as "sperate debts." The using of a Mortgage Receivable a/c is the most satisfactory method in which to handle these assets of the estate. For instance, if you inventory a mortgage as a sperate debt you can only make an entry of the same in your estate books when one of the three following contingencies arise:

(*a*) Mortgage paid in full or part by mortgagor.
(*b*) Distributed by executor to residuary or specific legatees.
(*c*) Sold by the executor to raise cash.

Example A.

Assuming Jones to have paid to the executor (Jones being mortgagor) $50.00 on account of his mortgage of $500.00, Smith (also mortgagor to the deceased) to have paid $200.00 on account of his mortgage of $300.00—

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Cash-Book Entry:

Cash (Executors') a/c	$250 00	
To Sperate Debts Receivable a/c		$250 00
Jones on a/c	50 00	
Smith on a/c	200 00	

In the above proposition you can only make entry in the estate books as and when the cash is received. The mortgage is, however, a negotiable asset and should be credited to Estate Corpus a/c at once. This cannot consistently be done if treated as a sperate debt and so inventoried to the Probate Court.

Example B.

Assuming that the remainder of Jones' mortgage ($450.00), and the remainder of Smith's mortgage ($100.00) are given to A. Black and B. Black, respectively, they being residuary legatees; and that the executors have secured permission to distribute these two remaining residue items in order to close the estate, make

Journal Entry:

Sperate Debts Receivable a/c	$550 00	
To Estate Corpus a/c		$550 00

Then—

Estate Corpus a/c	$550 00	
To Residuary Legatees' a/c		$550 00

Then—

Residuary Legatees' a/c	$550 00	
To Sperate Debts Receivable a/c		$550 00

Having inventoried these items as "sperate debts" you must, to be consistent, treat them as such. By doing so you have three journal entries to make, and they are at best of such a character that on analysis they would not stand much criticism, yet they are the only possible consistent ones under the particular circum-

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stances. The first entry charges the Sperate Debts a/c and credits the Estate Corpus a/c. The second entry charges the Estate Corpus a/c and credits the Residuary Legatees' a/c. The third shows delivery to the residuary legatees, Sperate Debts Receivable a/c receiving credit, because the mortgagor now owes the legatee and not the estate.

Example C.

Assuming both of the foregoing mortgages to have been sold by the executors for their face value net, Jones' mortgage $500.00, Smith's mortgage $300.00—

CASH-BOOK.

Executors' Cash a/c.....	$800 00	
To Sperate Debts Receivable a/c.....		$800 00

Cash being charged and Sperate Debts Receivable a/c credited for the payment; but the selling of mortgages by the executor to raise cash is not of frequent occurrence, and even should this be done the above entry would only put such money on the books when the sale was made and the cash received, which might be months after the date of death.

By examining examples A, B and C it will be seen that the handling of mortgages as "sperate debts" is both uncertain and complicated and does not contribute to a true statement of the affairs of an estate as shown by the books. Therefore, unless prohibited by statute, it is advisable to return them as mortgages under such a heading along with your stocks and bonds. If you do, then you can use this Mortgages Receivable a/c, but not otherwise.

268. **What This Account Should Contain.** It should contain mortgages left by the decedent, he being the mortgagee, the same having been inventoried to the Probate Court as "mortgages" and not as "sperate debts."

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In the following remarks, therefore, it will be understood that they are inventoried as above advised, *i. e.*, as mortgages.

269. **Opening Entry.** Take that portion of the inventory showing mortgages and ascertain the total appraisement, which will be the face value of the mortgage, and make

Journal Entry:

Mortgages Receivable a/c.
    To Estate Corpus a/c.
Being mortgages and value of same as per inventory.

Date such entry, of course, as of the day of death. One general account may be kept in the general ledger, and a small book of convenient size kept in which to keep a full description of each mortgage, etc. The balance of this memorandum book and its controlling account in the general ledger should at all times agree.

270. **Should Be Charged With.** The debits to this account are the mortgages receivable as per inventory. No other debits will occur unless entries to correct mistakes are made, or other mortgages received.

271. **Should Be Credited With.** When any of these mortgages are foreclosed, sold, redeemed, or distributed, credit this account. For examples see the sections which follow.

272. **Mortgages Sold.** Assuming the executor to have obtained the court's sanction to sell a mortgage to raise cash for defraying the expenses of the estate, etc.

Cash-Book Entry:

Cash (Executors') a/c.
    To Mortgages Receivable a/c.

Thus charging Cash a/c with the proceeds and crediting Mortgages Receivable a/c with a like sum. If, however, the sale realizes a loss under or a gain over the inventory value (face value of mortgage ordinarily) then treat such loss or gain as instructed in article on "Loss and Gain on Corpus Sales a/c," (page 173).

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273. **Mortgages Redeemed by Mortgagor.** Treat as described in section 272 preceding.

274. **Mortgages Distributed by Executor Outright.** Should the executor obtain permission to distribute say three one thousand dollar mortgages to the residuary legatees (A, B and C) outright as per will, then we have

Journal Entry:

Estate Corpus a/c	$3,000 00	
To Residuary Legatees' a/c		$3,000 00

And—

Residuary Legatees' a/c	$3,000 00	
To Mortgages Receivable a/c		$3,000 00

The first entry takes them out of the Estate Corpus a/c and places them to the credit of the residuary legatees.

The second entry shows delivery by the executor to the legatees, and credits Mortgages Receivable a/c for such delivery.

If instead of delivery to residuary legatees such delivery had been made as per will to specific legatees then in place of the former substitute the latter.

275. **Mortgages Distributed by Executor to Himself in Trust.** Assuming A, B and C to have been given these three mortgages in trust, the executor acting also in the capacity of trustee as per will—

Journal Entry:

Estate Corpus a/c	$3,000 00	
To A Trust Security a/c		$1,000 00
B Trust Security a/c		1,000 00
C Trust Security a/c		1,000 00

Then—

Trustees' Mortgages Receivable a/c	$3,000 00	
To Mortgages Receivable a/c (Executors')		$3,000 00

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Showing that the mortgages have been taken from the Estate Corpus a/c and placed to the credit of the respective trust accounts, and showing the transfer of these mortgages from the executors to themselves as trustees. It might be noted that instead of having any specific or separate account for mortgages they could be treated as investments, but this is not a good plan, for it is always well to keep mortgages entirely separated from other accounts. It will also be noted that the mortgages have been put into A, B and C's Trust Security Accounts; such an entry is entirely proper, as a division of the trust security accounts for different kinds of investments is not to be shown on the general ledger. An itemized account for these accounts should, however, be kept in a small book, this book giving information which it is necessary to keep and which could not be placed upon the ledger so as to present an intelligent record. The trustees' accounts showing the assets of the different trust accounts should, however, be separated, so as to disclose distinctly the various kinds of property with which the trustees are charged.

276. **Closes Into.** The preceding sections fully illustrate the closing of this account; that is, when all the mortgages have been foreclosed, redeemed or distributed, or sold by the executor.

277. **Applicable to Administrators.** With the exception of the remarks which refer to specific legatees, residuary legatees, trustees and trust accounts, this article will apply to administrators as well. Where residuary legatees occur substitute "heirs-at-law."

Mortgages Receivable a/c.

Dr.		*Cr.*	
To		By	
Estate Corpus	a/c	Executors' Cash	a/c
Trustees' Mortgages Receivable	"	Specific Legatees'	"
		Residuary Legatees'	"
		Trustees' Mortgages Receivable	"

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Leasehold Property A/C.

Representing Assets.

Applicable to Executors.

278. **General Remarks.** This account is subsidiary to the Estate Corpus a/c, carrying as assets of the estate all leasehold property, its valuation being based on the inventory. Leasehold property such as buildings, etc., may or may not be sold by the executor. It is customary to assign fractional interests in the same to the residuary legatees. Assuming there are five children, and a building which they are to receive in equal shares, then each would get a one-fifth undivided interest, etc. The handling of this account is very similar to that of Estate Investments a/c.

279. **What This Account Should Contain.** This account should contain the sum total of the leasehold property valued as per inventory rendered to the court. It is a good plan to have one general account in the ledger, keeping at the same time a subsidiary book of convenient size in which to enter the property in detail, if there is much of it. Naturally the balance of the subsidiary book should agree at all times with the balance of the Leasehold Property a/c (the controlling account) in the general ledger. If, however, you prefer to open an account in the general ledger for each piece of leasehold property then do so.

This account should not contain the profits on sales, nor should it be made to stand or show the losses by reason of sales, as the Loss and Gain on Corpus Sales a/c especially provides for this, and similar conditions in other accounts.

280. **Opening Entry.** This account is opened simultaneously with the Estate Corpus a/c. Upon the return of the inventory from the court duly appraised, make the following entry of the portion showing the leasehold property, taking the total valuation as per inventory—

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Journal Entry:

Leasehold Property a/c.
To Estate Corpus a/c.

This being all the leasehold property as per inventory and at the inventory valuation.

The date of the above entry should be as of the day of death.

281. **Profits on Sales of Leasehold Property.** Assuming that a leasehold warehouse left by the decedent is sold by the executor with the court's permission. The valuation as per inventory being $3000.00, proceeds of sale net $4000.00.

CASH-BOOK.

	Executors.	Trustees.		Executors.	Trustees.
To Leasehold Property a/c: Sale of warehouse	$3,000 00				
To Loss and Gain on Corpus Sales a/c: Sale $4,000 00, Appr. 3,000 00	1,000 00				

The above entry could, of course, be expressed just as easily in the manner shown below, but it is the object of this book to present the facts and principles involved as they actually appear to the eye in practice, and for this reason the cash-book entries are often illustrated herein as they would actually appear in the cash-book. The following entry expresses the same meaning and is synonymous with the entry illustrated above:

Cash (Executors') a/c.....$4,000 00
To Leasehold Property a/c..... $3,000 00
Loss and Gain on Corpus Sales a/c..... 1,000 00

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282. **Losses on Sales of Leasehold Property.** Assuming that a leasehold dwelling left by the decedent was sold by the executor. Appraised per inventory $2500.00, sale net $2000.00, loss $500.00. Then make entry in the

CASH-BOOK.

	Executors.	Trustees.		Executors.	Trustees.
To Leasehold Property a/c: For sale of dwelling No. — St. (see contra for entry for loss)	$2,500 00		By Loss and Gain on Corpus Sales a/c: For loss on sale of dwelling No. — St. (see contra)	$500 00	

There is no use in entering in the cash-book the exact proceeds of the sale and then journalizing the difference. The above is much the better entry under the circumstances.

283. **Specific Legatees.** Where any leasehold property is specifically bequeathed to one in terms as follows: "I bequeath to my son A the dwelling known as No. 3 M St.," it must be separated from the rest of the estate. Therefore, the following entry is in order:

Journal Entry:

Estate Corpus a/c.
    To Specific Legatees' a/c.

This entry showing that the estate has been charged with the distribution of this property, and the specific legatee credited with the same at the inventory valuation.

Then—

Journal Entry:

Specific Legatees' a/c.
    To Leasehold Property a/c.

Showing that the specific legatee has been given the building by the executor.

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These entries should be made only after the court's permission to distribute has been secured. The court will not allow you to part with any property, which is specifically bequeathed, for other purposes than that expressed in the will. Hence there is not much danger of your doing so involuntarily.

It might be noted here that the *income* derived from a piece of property, or anything which has been specifically bequeathed should immediately be separated from the regular income derived from the estate, as such income vests in the specific legatee from the day of death. It must, however, be derived entirely from the article or property so specifically bequeathed, and construed by the court to be "specific" within the meaning of the law.

284. **Distribution to Residuary Legatees.** Leasehold property which has not been specifically bequeathed, and which is a part of the residue of the estate for division, goes to the residuary legatees as per will. If this property is a good paying investment there is no use selling the same and dividing the proceeds in cash. Assuming there to be three children, to whom has been left the residue of the estate, then the following entry must be made:

Journal Entry:

Estate Corpus a/c.
    To Residuary Legatees' a/c.
        J. Brown, $
        S. Brown, $
        A. Brown, $

Being leasehold warehouse No. — St. transferred to the above mentioned, each receiving outright a one-third interest (undivided) in this warehouse.

Then—

Journal Entry:

Residuary Legatees' a/c.
    J. Brown, $
    S. Brown, $
    A. Brown, $
    To Leasehold Property a/c.

For conveying title to above warehouse, etc.

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These entries should not, of course, be made until the court has sanctioned distribution.

285. **Distribution in Trust for Residuary Legatees.** Assuming that a piece of leasehold property has been left in trust for three children, in equal shares, each having the use of the income derived from his or her undivided share for his or her natural life, and supposing the executors also to be the trustees under the will, then

Journal Entry:

Estate Corpus a/c.
    To J. Brown Trust Security a/c.
        S. Brown Trust Security a/c.
        A. Brown Trust Security a/c.

Being a one-third interest in trust for each of the above mentioned in warehouse No. — St.

Then—

Journal Entry:

Trustees' Leasehold Property a/c.
    To (Executors') Leasehold Property a/c.

Being warehouse No. — St. transferred by the executors to the trustees as per will and order of court.

286. **Should Be Charged With.** We have seen that the Leasehold Property a/c (of the estate or executors) should be charged with the total leasehold as per inventory. That is the only charge which is likely to occur on this account unless, of course, other leasehold property is received.

287. **Should Be Credited With.** In the preceding sections it will be seen that when any of the property is parted with or sold in any manner, this account must be credited for that portion parted with, and for its value as per inventory.

288. **This Account Closes.** When all the leasehold property has been sold or distributed then this account of the executors will close.

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289. **Applicable to Administrators.** The rules given in the foregoing sections for executors, in principle also hold good for administrators, but where reference is made to residuary and specific legatees, and trust funds and trustees, it can be seen at once that the administrator would not be concerned, since he is governed by no will under which to distribute. In place of Residuary Legatees' a/c he would have an Heirs-at-Law a/c.

Leasehold Property a/c.

Dr.		*Cr.*	
To		By	
Estate Corpus	a/c	Executors' Cash	a/c
Trustees' Leasehold Property	"	Specific Legatees'	"
		Residuary Legatees'	"
		Trustees' Leasehold Property	"

Executors' Annuity Investments A/C.

Representing Assets.

Applicable to Executors.

290. **General Remarks.** If, by the terms of the will, there is an annuity to be paid by the executor, there should be, in due time, a fund reserved by order of the court to create and guarantee such annuity. The court, of course, looks out for this. At the death of the annuitant such a fund reverts, for final distribution, to the estate from which it originated.

291. **What This Account Should Contain.** It should contain all those securities which are thus set aside to create and guarantee such annuities for the annuitants.

292. **Opening Entry.** Having received orders from the court to reserve say

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500 shares R. R. stock, appraised per inventory.....$55,000 00
500 shares Tele. stock, appraised per inventory..... 75,000 00

to create annuities for J. Brown and J. Jones, respectively, the executor should make

Journal Entry:

Executors' Annuity Investments a/c.....$130,000 00
To Estate Investments a/c..... $130,000 00

Being funds reserved per order of court to produce annuities for Brown & Jones.

Estate Investments a/c is credited with this because while the estate still owns these stocks the title to the same is a contingent one (contingent on the death of the annuitant, or the substitution of some other security or securities to take their place). Such a condition should be distinctly shown, because the Estate Corpus a/c will show that much undistributed. It would not be correct to take this $130,000.00 out of the Estate Corpus a/c because it would eventually have to go back again, and on its return the executor would have no right to charge another commission.

293. **Should Be Charged With.** The debits to this account consist of the funds reserved to create the annuities.

294. **Should Be Credited With.** It is unlikely that there would be any credits to this account until the death of the annuitant, when the funds reserved to create this annuity would revert to the estate. A contingency which can arise, however, is that the court may order a sale and a reinvestment, where an undesirable security has been set aside to produce annuities. There are then three things to consider when making your entries—

(*a*) When the net proceeds of the sale equal exactly the value of the securities as per inventory.

(*b*) When the executor realizes a profit over the inventory value.

(*c*) When the net proceeds of the sale are less than the inventory value.

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Example A.

Cash-Book Entry:

Cash (Executors') a/c.
To Executors' Annuity Investments a/c.

Example B.

Cash-Book Entry:

Executors' Cash a/c (proceeds of sale).
To Executors' Annuity Investments a/c (inventory value).
Loss and Gain on Corpus Sales a/c (net profit on sale).

Example C.

Cash-Book Entry:

Executors' Cash a/c (proceeds of sale).
Loss and Gain on Corpus Sales a/c (loss under inventory).
To Executors' Annuity Investments a/c (inventory value).

Any one of these three entries may occur, but they are not likely to occur if securities of good rating are set aside in the beginning.

295. **Closes Into.** This account closes as and when tne annuities cease and the funds revert to the estate.

Journal Entry:

Estate Investments a/c.
To Executors' Annuity Investments a/c.

thus closing up this account and throwing the funds back agam into Estate Investments a/c for distribution.

296. **Applicable to Administrators.** This article does not apply to the administrator, since a will is required to create an annuity.

Executors' Annuity Investments a/c.

Dr.		*Cr.*	
To		By	
Estate Investments	a/c	Executors' Cash	a/c
		Estate Investments	"

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ANNUITY INCOME A/C.

Showing Income Received with Which to Pay Annuities.

Applicable to Executors.

297. **General Remarks.** This account may contain the income for any number of annuitants if desired. If a separate account for each annuitant is preferred this method can also be used. There is no use keeping a separate Annuity Income a/c for each annuitant, because the different annuitant accounts may be closed directly into this one.

298. **What This Account Should Contain.** This account should contain cash income of funds reserved by the executor to create and guarantee the annuities of different persons.

299. **Opening Entry.** The court having ordered a fund reserved to create an annuity, the opening entry of this account is caused by the receipt of income from such fund, which necessitates a cash-book entry—

(Executors') Cash a/c.
    To Annuity Income a/c.

300. **Should Be Charged With.** The debits to this account are the different annuitant accounts, which are closed into Annuity Income a/c when the administration account is rendered to the proper court.

Annuity Income a/c.
    To ..... Annuitant a/c (prefix name).

301. **Should Be Credited With.** The credits to this account are the cash items of income as and when received.

302. **Closes Into.** When the annuitants' accounts have been closed into this account it should either close of itself, or it should show a surplus. It is not probable that a deficit will be shown, neither is it probable that the income received exactly equals the

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annuities disbursed; therefore, having eliminated these possibilities we have left a surplus to deal with. You will find that the lawyer in drawing up the will has taken care of such surplus, and you must, therefore, in dealing with the surplus, be guided entirely by the will. In any event, it will be a very simple proposition.

303. **Applicable to Administrators.** An administrator would not find use for an account like this, as it is based on a condition emanating from a will.

Annuity Income a/c.

Dr.	*Cr.*
To .....Annuitant (prefix name) a/c	By Executors' Cash a/c

Corpus Interest A/C.

Showing Interest Received After Death, Accrued and Apportioned to Date of Death.

Applicable to Executors.

304. **General Remarks.** Interest in the sense used here means interest which accrues *de die in diem* as distinguished from dividends which do not accrue *de die in diem,* but which are commonly called interest.

305. **What This Account Should Contain.** This account should contain interest accrued to and including the date of death of the decedent, for such interest is a part of the estate corpus. But note the fact that such apportionment is made only when the cash or its equivalent is received.

306. **Opening Entry.** This account is opened when interest is paid which originated either partly or wholly previous to the decedent's death, but is paid after such death to the executor. Assuming two coupons of $25.00 each to be due and paid to the

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executor on December 1, 1906, and the decedent to have died on August 31, 1906. The life of these coupons (semi-annual coupons) originated on the 1st day of June, 1906, hence

Cash-Book Entry:

Cash (Executors') a/c	$50 00	
To Corpus Interest a/c.		
Interest on two coupons, $25, each due December 1, 1906, accrued to August 31, 1906, inclusive, or 3 months' interest		$25 00
Interest and Dividends a/c:		
Interest as above from 9/1/06 to 11/30/06, incl.		25 00

The above cash-book entry would show the interest accrued to date of death (August 31st) as having been put into Corpus Interest a/c, and the balance into Estate Income a/c, through Interest and Dividends a/c.

307. **Should Be Charged With.** There are no debits to this account except where entries are made to correct errors, or when transferring the balance to the credit of Estate Corpus a/c in order to close or for payments of interest on obligations of the deceased to date of death.

308. **Should Be Credited With.** The credits to this account consist of cash received for interest originating prior to and accrued up to and including the date of decedent's death.

309. **Closes Into.** This account is closed into Estate Corpus a/c when rendering your first administration account to the court. The closing date should be as of the date covered by your administration account and should include all items in such report, but no items of a later date.

Corpus Interest a/c.
To Estate Corpus a/c.

To transfer the former to the latter.

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310. **Applicable to Administrators.** All remarks made in the preceding sections will apply to the administrator.

Corpus Interest a/c.

Dr.		*Cr.*	
To Estate Corpus	a/c	By Executors' Cash	a/c

Corpus Dividends A/C.

Showing Dividends Declared Before Death, but Paid After Death.

Applicable to Executors.

311. **General Remarks.** Dividends actually declared on or before the decedent's death belong to the corpus of the estate. Dividends declared after the decedent's death belong to income.

312. **What This Account Should Contain.** Cash dividends on stock, etc., actually declared prior to or on the date of decedent's death, even though payable after death, go to the credit of this account. Dividends do not accrue *de die in diem,* and should not in this case be apportionable as if interest, nor in fact are they ever apportionable except under very special circumstances, which phase has been treated in Chapter VII, "Corpus and Income," page 63.

313. **Opening Entry.** Assuming the testator to have died October 1; dividend on A. C. preferred stock declared October 1; decedent's share being $400.00. Also dividend declared October 2 (day after decedent's death) on common stock, decedent's share being $200.00, both of the above dividends due and payable October 10, then—

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Cash-Book Entry:

Executors' Cash a/c.....$600 00

To Corpus Dividends a/c:
Div. A. C. prfd. stock declared date of death. $400 00
Interest and Dividends a/c:
Div. A. C. com. declared Oct. 2 (after death). 200 00

This entry in the cash-book would credit Corpus Dividends a/c with the dividend declared on the date of death, and credit Estate Income a/c through Interest and Dividends a/c with the dividend declared after death.

314. **Should Be Charged With.** There are no debits to this account unless for correction of errors, or when transferring the balance to the credit of Estate Corpus a/c.

315. **Should Be Credited With.** The credits to this account are the cash dividends received, and which were declared prior to or on the date of death of the decedent, no matter when payable, entry being made when the cash is received as per section 313.

316. **Closes Into.** This account closes into Estate Corpus a/c when rendering your first administration account to the court.

Journal Entry:

Corpus Dividends a/c.
To Estate Corpus a/c.

317. **Applicable to Administrators.** Remarks for the executor in the preceding sections will apply to the administrator.

Corpus Dividends a/c.

Dr.		*Cr.*	
To Estate Corpus	a/c	By Executors' Cash	a/c

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CORPUS RENTS A/C.

Showing Rents Received and Apportioned as Between Corpus and Income.

Applicable to Executors.

318. **General Remarks.** Like interest, rents (where statute provides) must be apportioned, when received, and that proportion up to the day of death inclusive is corpus. Beginning with the day after date of death rents are income of the estate, provided the executor has testamentary control of the property producing such rent.

319. **What This Account Should Contain.** This account should contain cash received for rents, same being apportioned up to the day of death. Where the statute does not provide for the apportionment of rents follow the rule given in note, section 180. But this account must in no case contain rent unearned (paid in advance for a period extending beyond date of death).

320. **Opening Entry.** The entry to open this account will be caused by rents being collected or received by the executor, part or all of which have accumulated or been earned prior to and including the day of death of the decedent. Thus,

J. Jones pays rent $30.00, Sept. 1 to Sept. 30, inclusive.
J. Smith pays rent $30.00, Sept. 10 to Oct. 10, inclusive.

The executors of John Brown receive this sixty dollars. John Brown died September 30.

Cash-Book Entry:

Cash (Executors') a/c	$60 00	
To Corpus Rents a/c		$50 00
Jones, 9/1 to 9/30.		
Smith, 9/10 to 9/30.		
Interest and Dividends a/c		10 00
Smith, 10/1 to 10/10.		

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Now if this property had been devised specifically to some particular person, and not to the executors for the general benefit of the estate, Smith's rent from October 1 to October 10 would, of course, be credited to Specific Legatees' Income a/c instead of Interest and Dividends a/c. The income from a specific legacy vests in the legatee from date of death of the testator.

321. **Should Be Charged With.** There are no debits to this account until the time comes to close it into Estate Corpus a/c, which is when the administration account is rendered to the court.

Journal Entry:

Corpus Rents a/c	$50 00	
To Estate Corpus a/c		$50 00

322. **Should Be Credited With.** The credits to this account are the rents as and when they are received and only that part of them which has accrued up to and including the date of death.

323. **Closes Into.** This account closes directly into Estate Corpus a/c, as shown in section 321.

324. **Applicable to Administrators.** An administrator should receive rents accrued or apportioned to and including the day of death of the decedent. He should not retain the portion earned after death, for such portion should not go into his administration accounts, as he has nothing to do with it in his official capacity. Said portion goes directly to the heir-at-law. If, however, the rents are derived from leasehold property, and not from the realty, then, of course, he should receive all rents from such sources, and the rules given herein would apply.

If the heirs request him as their agent to collect rents for them arising from the realty, he should see that such rents earned after death go to the heirs and not into the administration accounts, as he is acting in that case as a mere agent of others in a matter entirely foreign to the estate.

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Corpus Rents a/c.

Dr.		*Cr*	
To Estate Corpus	a/c	By Executors' Cash	a/c

SPERATE DEBTS RECEIVABLE A/C.

Showing Collections of Sperate Debts by Executor.

Applicable to Executors.

325. **General Remarks.** Debts due the decedent are usually returned on the inventory rendered to the Probate Court classified as

"Sperate" (good),
"Doubtful" (doubtful, uncertain),
"Desperate" (apparently worthless),

according to the probability of their ultimate collection. The classification is determined by the executor. These debts should not be journalized when the estate books are opened. Wait until payments on the same are received, otherwise you may fill your books full of items the collection of which you may never be able to effect. Besides, debts are not generally of a distributable nature. For this reason this account does not show as an asset. Executors' Cash a/c will be charged as the cash for these debts is received, and the Executors' Cash a/c represents assets.

326. **What This Account Should Contain.** This account should contain all cash received by the executor in payment of sperate debts. Whether payments are received in full or partially makes no difference. Credit this account only with the actual cash received, the debit offset being, of course, the Executors' Cash a/c. Promissory notes and mortgages receivable (decedent being mortgagee) are sometimes treated as "debts" due the decedent in the

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sense of "sperate debts." In this case they would have to be treated in exactly the same manner as debts due the decedent on open accounts, no entry being made in the estate books until payments are received either in full or in part.

It is well to treat unsecured promissory notes in this manner, but it is better to return mortgages held by the decedent as "mortgages" (in fact they should be so returned) and not as mere debts. A promissory note would hardly be distributed to even a residuary legatee, whereas a mortgage may very readily be so. A mortgage well secured is a good investment which is easily disposed of. Mortgages, as said before, should be treated wherever possible, as "mortgages" and as such should be put into an account entitled Mortages Receivable a/c, which is more fully described under a separate article, page 146.

In case the testator has during his lifetime charged his children on his books with certain advances made and has, in his will, directed that such charges be deducted from their share of the estate, then these charges should be treated as sperate debts due the estate. As to this see sections 159, 329.

327. **Opening Entry.** This acount is first opened when payment on a sperate debt is received. Thus, assume Jones to owe the decedent $50.00 and Brown to owe him $100.00, both on open accounts. Moreover, that Jones pays his $50.00 and Brown $25.00 on account, then—

Cash-Book Entry:

Executors' Cash a/c	$75 00	
To Sperate Debts Receivable a/c		$75 00
Jones in full	$50 00	
Brown on a/c	25 00	

The above entry would, therefore, open this account.

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328. **Should Be Charged With.** There are no debits until transfer is made to the Estate Corpus a/c in order to close this account, then—

Journal Entry:

Sperate Debts Receivable a/c.
To Estate Corpus a/c.

329. **Should Be Credited With.** The credits to this account consist of cash as and when received in payment of sperate debts due the decedent. Entries are made in the cash-book, Executors' Cash a/c being charged, and Sperate Debts Receivable a/c being credited. But do not credit this account unless the cash received is against an item returned in the inventory to the court as a sperate debt. The above credits consist only of cash-book entries.

The only credit which would possibly occur through the journal would be under the following circumstances. For instance, Jones leaves to Brown a legacy of three thousand dollars, stipulating that any advances paid to Brown during the decedent's life, or any other debts which said Brown may owe to the decedent at the decedent's death, be first deducted from such legacy, Brown to receive the balance if there is any. Assuming Brown to owe the decedent two thousand dollars as per decedent's books. This debt of $2000.00 due the decedent by Brown should be returned by the executor as a sperate debt upon the inventory containing the debts receivable, and if instead of Brown such legatee had been Jones' son or daughter, the return should have been made in a like manner. You are not going to pay this legatee $3000, but only $1000. Now if you do not return this $2000 on your inventory of debts, and also do not enter the same on your estate books, your books will show only a payment of $1000 to the legatee, whereas the will on file calls for $3000. In other words, while you have paid the right amount, there is absolutely nothing to show that you have done so.

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Therefore, when ready to pay the legatee make the following entry in the journal:

Journal Entry:

Pecuniary Legatees' a/c.....$2,000 00
Sperate debt due the deceased deducted from Brown's legacy of $3000 as per will.
To Sperate Debts Receivable a/c..... $2,000 00

This entry charges the legatee with this debt, which is virtually paid to such legatee, the same being thereby cancelled.

Cash-Book Entry:

Pecuniary Legatees' a/c.....$1,000 00
Being legacy to Brown as per will of $3,000 00
Less amount owed by legatee as per decedent's ledger and terms of will. 2,000 00

To Executors' Cash a/c..... $1,000 00

This cash-book entry charges the legatee with the $1000.00 paid in cash, thus discharging the legacy, Executors' Cash a/c being credited for such payment through the total columns of the cash-book.

330. **Closes Into.** When rendering your First Administration Account, close this account by transferring the credit balance to the credit of Estate Corpus a/c through the journal. Thus assuming five hundred dollars to have been collected on sperate debts when the executor is ready to file with the court his administration account make,

Journal Entry:

Sperate Debts Receivable a/c.....$500 00
To Estate Corpus a/c..... $500 00

thus closing the Sperate Debts a/c and carrying the credit balance of the same to the Estate Corpus a/c for distribution. When rendering each successive administration account, if there be any, treat in the same manner.

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331. **Advantage in Separating Sperate from Doubtful and Desperate Debts.** By keeping separate accounts you will know by merely glancing at the ledger how much you have collected against each classification without first having to analyze the account, which would be necessary where only one account is kept for all three.

332. **Applicable to Administrators.** Remarks in the preceding sections, with the exception of those remarks applying to legacies or legatees, will apply in full for the administrator.

Sperate Debts Receivable a/c.

Dr.			*Cr.*	
To			By	
Estate Corpus		a/c	Executors' Cash	a/c
			Pecuniary Legatees'	"

Doubtful Debts Receivable A/C.

Showing Collection of Doubtful Debts by the Executors.

Applicable to Executors.

333. **General Remarks.** Doubtful debts are generally composed of promissory notes and debts on open accounts, the collection of which is slightly uncertain, these debts having been due the decedent at his death.

334. **What This Account Should Contain.** See section 326, Sperate Debts Receivable a/c, substituting "Doubtful" where the word "Sperate" occurs.

335. **Opening Entry.** See section 327, Sperate Debts Receivable a/c, substituting "Doubtful" where "Sperate" occurs.

336. **Should Be Charged With.** See section 328, Sperate Debts Receivable a/c, substituting "Doubtful" where "Sperate" occurs.

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337. **Should Be Credited With.** See section 329, Sperate Debts Receivable a/c, substituting "Doubtful" where "Sperate" occurs. Omit, however, that portion of this section concerning legatees, etc.

338. **Closes Into.** See section 330, Sperate Debts Receivable a/c, substituting "Doubtful" where "Sperate" occurs.

339. **Advantage in Separating Doubtful from Sperate and Desperate Debts.** See section 331, Sperate Debts Receivable a/c substituting "Doubtful" where "Sperate" occurs.

340. **Applicable to Administrators.** Remarks as per preceding sections apply for the administrator. See section 332, Sperate Debts Receivable a/c.

Doubtful Debts Receivable a/c.

Dr.		*Cr.*	
To		By	
Estate Corpus	a/c	Executors' Cash	a/c

Desperate Debts Receivable A/C.

Showing the Collection of Desperate Debts by the Executor.

Applicable to Executors.

341. **General Remarks.** Desperate debts are generally promissory notes, the collection of which is very uncertain, notes past due, and debts on open accounts which appear to be hopeless.

342. **What This Account Should Contain.** See section 326, Sperate Debts Receivable a/c, substituting "Desperate" where the word "Sperate" occurs.

343. **Opening Entry.** See section 327, Sperate Debts Receivable a/c, substituting "Desperate" where the word "Sperate" occurs.

344. **Should Be Charged With.** See section 328, Sperate Debts Receivable a/c, substituting "Desperate" where the word "Sperate" occurs.

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345. **Should Be Credited With.** See section 329, Sperate Debts Receivable a/c, substituting "Desperate" where the word "Sperate" occurs. Omit, however, that portion of this section concerning legatees, etc.

346. **Closes Into.** See section 330, Sperate Debts Receivable a/c, substituting "Desperate" where the word "Sperate" occurs.

347. **Advantage of Separating Desperate from Sperate and Doubtful Debts.** See section 331, Sperate Debts Receivable a/c, substituting "Desperate" where the word "Sperate" occurs.

348. **Applicable to Administrators.** See section 332, Sperate Debts Receivable a/c, substituting "Desperate" where the word "Sperate" occurs.

Desperate Debts Receivable a/c.

Dr.		*Cr*	
To		By	
Estate Corpus	a/c	Executors' Cash	a/c

Loss and Gain on Corpus Sales A/C.

Representing Losses and (or) Gains on Sales of Corpus of the Estate.

Applicable to Executors.

349. **General Remarks.** This account is subsidiary to all accounts containing values based on the inventory returned to the court, and also to any accounts which may be opened by investing estate funds with the court's permission. It is, of course, understood that a loss or gain on these purchases or original assets is only incurred or derived when a sale is made for which cash or its equivalent is received. This account is directly subsidiary to Estate Corpus a/c. It is created by the accounts first mentioned above and closed into the one last mentioned.

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350. **What This Account Should Contain.** This account contains only the loss and (or) gain on sales of estate corpus by the executor under or above the inventory appraisement.

351. **Opening Entry.** The opening entry occurs only when a sale of something composing the estate corpus, and for which the executor has been charged by the court at some specific value, is made. For instance,

100 shares of stock, appraised 90, sold at 80.
Leasehold Warehouse, appraised $5000, sold at $6000.

CASH-BOOK ENTRY.

	Executors.	Trustees.		Executors.	Trustees.
To Estate Investments a/c Proceeds:			By Loss and Gain on Corpus Sales a/c:		
100 shares sold at 80, appraised at 90 (see contra entry).....	$9,000 00		100 shares sold at 80, appraised at 90 (see contra entry).....	$1,000 00	
To Leasehold Property a/c...	5,000 00		By Brokers' commission on the above sale.....	12 50	
To Loss and Gain on Corpus Sales a/c:					
Sale of warehouse....$6,000					
Appraised, 5,000					
——	1,000 00				

On the credit side of the above entry the broker's commission on the sale, and the loss could be put in one item, since they are both charged to the Loss and Gain a/c.

The above entries in the cash-book show a loss on the stocks, but a profit on the leasehold warehouse sale. The reasons for the above entries are; first, the court wants to know from time to time what you have done with the property as per inventory; secondly, what accretions to, and income from, the corpus you have received, as well as disbursements of property. Therefore, instead of having

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the profit or the loss on corpus sales scattered throughout various accounts, it is better to throw these all into one Loss and Gain a/c. If you charge an account with assets as per inventory and then, when sales are made, credit this account with the exact proceeds you will never know just what you have on hand until you make an analysis of this account. If, however, you credit the account on the inventory basis, and let the Loss and Gain a/c take care of the losses or the profits, you will know that the credit side of the accounts representing assets deducted from the debits to the same accounts will leave the property (as per inventory) which is on hand unsold. You can turn to the Loss and Gain on Corpus Sales a/c and find at once what you have incurred losses on and what you have derived profits from.

When ready to file your First Administration Account with the court this account should be closed by transferring the balance to the Estate Corpus a/c.

Journal Entry:

Loss and Gain on Corpus Sales a/c.
    To Estate Corpus a/c.

Assuming the balance to show a profit (credit balance).

Should the account, however, show a loss, then just reverse the above entry.

Estate Corpus a/c.
    To Loss and Gain on Corpus Sales a/c.

And for each successive administration account filed with the court treat in the same manner.

352. **Should Be Charged With.** The debits to this account are, therefore, all the losses incurred on the corpus sales, which is the difference between the court's valuation and the net proceeds of the sale.

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353. **Should Be Credited With.** The credits to this account are all the profits derived from the sales of corpus, which is the difference between the net proceeds of the sale and the court's valuation.

354. **Closes Into.** When rendering your First Administration Account close the Loss and Gain on Corpus Sales a/c to date of such report, carrying the balance of this account to Estate Corpus a/c as provided in section 351.

355. **Applicable to Administrators.** The above remarks apply throughout to administrators.

Loss and Gain on Corpus Sales a/c.

Dr.		*Cr.*	
To		By	
Executors' Cash (if a loss)	a/c	Executors' Cash (if a gain)	a/c
Estate Corpus (to close)	"	Estate Corpus (if a loss, to close)	"

ANNUITANT A/C.

(Prefix Name)

Showing payments to the Annuitant by the Executor.

Applicable to Executors.

356. **General Remarks.** Each annuitant should have a separate account. Thus, in the account above, we would insert John Brown or John Jones, whoever the annuitant happened to be.

357. **What This Account Should Contain.** This account should contain all cash paid to the annuitant by the executor, as and when paid.

358. **Opening Entry.** This account is opened when payment is made to the annuitant, thus,

Cash-Book Entry:

John Brown Annuitant a/c.
To (Executors') Cash a/c.

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In the absence of contrary stipulations an annuity vests in the annuitant from (but not including) the date of death of the testator. It is obvious that some time may elapse between the date of death and the date of ratification by the court of such annuity, and also the date of reservation by the court of certain funds to be held to create and guarantee such annuity. Therefore, if any payments are made on annuities during such interim (per court's permission) then they should be charged against the Estate Income a/c.

359. **Should Be Charged With.** The debits to this account are the payments made on account by the executor to the annuitant. They are usually made in monthly instalments.

360. **Should Be Credited With.** There are no credits to this account until it is closed into Annuity Income a/c.

Journal Entry:

Annuity Income a/c.
To ..... Annuitant a/c (prefix name).

361. **Closes Into.** This account closes directly into Annuity Income a/c at the time of rendering your administration accounts to the court. If, however, you have been paying an annuity and no special fund has been set aside to create it, then this account should be closed into Estate Income a/c through Interest and Dividends a/c.

362. **Applicable to Administrators.** These remarks are not applicable to administrators since a will is required to create a testamentary annuity.

Annuitant a/c.

Dr.		*Cr.*	
To Executors' Cash	a/c	By Annuity Income	a/c

To the name of this account should be prefixed the name of the annuitant.

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EXPENSE CORPUS A/C.

Showing Sundry Expenses Charged Against Corpus.

Applicable to Executors.

363. **General Remarks.** It is utterly impossible for anyone to lay down a fixed rule as to what part of the expenses of an estate is to be charged against the corpus and what part against the income, because the provisions of each will may cause a court to rule differently in the matter. In all estates where the corpus and the income are distributed as one sum, or in equal shares, it makes no material difference as to which account is charged with the expenses. Under those conditions it is customary to use up the income first, and if that will not reach then a charge must be made against the corpus. By doing this the principal is kept intact as long as possible, and moreover the personal representative will not be compelled to sell securities at a sacrifice if the market is unfavorable at the time.

Should, however, for example, the testator leave his property in trust for his wife, the income thereof to be paid to her for her natural life with the remainder over to his children, and if it has been settled in your State that the life tenant is entitled to the income from the date of death, then it would become imperative for the representative to separate the expenses which properly go against the corpus or the interest of the remainderman, from those which are chargeable against the income. Now, since the law differs in the several States as to whether the trust begins to operate from the date of death of the testator or from the date of distribution, and since any fairly fixed rule may change in the light of a new testamentary disposition, it is always advisable for the representative and the accountant to consult with the legal adviser to determine the proper course to pursue.

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If the probate practice in your State or the provisions of the will require the representative to show the separation of corpus expenses and income expenses from the date of death of testator, then charge against each account such items as the court, legal adviser or court auditor may direct. The court auditor is mentioned because it is he who will examine your accounts when they are submitted to the court, and also because all accounts go through his hands and he knows what the custom is with reference to charging the different items. When in doubt get the approval of the auditor and your accounts will pass muster.

364. **What This Account Should Contain.** In a general way this account should contain such expenses as medical attendance for the deceased, funeral expenses, flowers, etc., accountant's services, permanent repairs and improvements to property, taxes on property not producing income sufficient to defray the same (in some States), court costs, legal fees, certifications, copies of documents, inheritance taxes, collateral inheritance taxes (where legacies are given free of tax), executors' commission on corpus, etc.

365. **Opening Entry.** The opening of this account occurs when any payments of the above expenses are made.

Cash-Book Entry:

Expense Corpus a/c.
    To (Executors') Cash a/c.

366. **Should Be Charged With.** This account should be charged with the expenses when paid, as illustrated in the preceding section, such entries in the ledger being derived from the cash-book. Executors' commissions may be charged to this account if desired either through the journal or the cash-book.

367. **Should Be Credited With.** This account is credited only when it is closed into Estate Corpus a/c.

Journal Entry:

Estate Corpus a/c.
    To Expense Corpus a/c.

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368. **Closes Into.** As described in section 367, this account closes directly into Estate Corpus a/c when the first or succeeding administration accounts are rendered to the court.

369. **Applicable to Administrators.** The remarks made herein generally apply to administrators.

Expense Corpus a/c.

Dr.		*Cr.*	
To Executors' Cash	a/c	By Estate Corpus	a/c

Contracts Payable A/C.

Showing Debts Contracted by Decedent and Paid by Executor.

Applicable to Executors.

370. **General Remarks.** Just debts contracted by the decedent must be paid by his executor. Such debts are usually put into one account as and when payment is made. They should, ordinarily, be all cash-book entries. The name of this account does not indicate that an actual contract must have been signed, a debt incurred is of itself a contract to pay.

371. **What This Account Should Contain.** It should contain only cash payments made by the executor in liquidating these debts. They may embrace any and all charges against the decedent, which debts he himself contracted, but taxes, light, water, servants' wages, medical attendance, etc., usually go to Expense Corpus a/c.

372. **Opening Entry.** This account is first opened when cash payments are made of such debts as properly belong to it, such as payments made to creditors for loans to decedent, mortgages payable, notes payable, etc., this account in the ledger is charged with the cash-book entry:

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Contracts Payable a/c.
To (Executors') Cash a/c.

373. **Should Be Charged With.** The debits to this account consist only of the payments of debts by the executor as described in sections 371 and 372. It is charged with the cash-book entry.

374. **Should Be Credited With.** There are no credits to this account until the balance is to be transferred to the debit of Estate Corpus a/c.

Journal Entry:

Estate Corpus a/c.
To Contracts Payable a/c.
To close this a/c.

375. **Closes Into.** This account should be closed directly into Estate Corpus a/c when the administration accounts are rendered.

376. **Applicable to Administrators.** All remarks made herein also apply to the administrator.

Contracts Payable a/c.

Dr.		*Cr.*	
To Executors' Cash	a/c	By Estate Corpus	a/c

EXECUTORS' COMMISSION A/C.

Showing Commission Due or Paid to the Executor.

Applicable to Executors.

377. **General Remarks.** Executors often do not take a commission, "waiving" the same. There is, however, in some States a tax on executors' commissions, and whether they take them or not it devolves upon the executors to pay such commission tax out

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of their own pockets. It is, therefore, best for an executor not desiring to take a commission to "waive" all of it except a certain stated sum, thus making a reservation to protect himself against just such contingencies. He can always return any surplus to the heirs.

378. **What This Account Should Contain.** The commission allowed by the Probate Court to the executor should be put into this account.

379. **Opening Entry.** When the court has allowed the commission to the executors the following entry may be made:

Journal Entry:

Estate Corpus a/c (commissions on corpus).
Estate Income a/c (commissions on income).
To Executors' Commission a/c.

380. **Should Be Charged With.** The debit to this account consists of the payment to the executors of the commission due them.

Cash-Book Entry:

Executors' Commission a/c.
To (Executors') Cash a/c.

381. **Should Be Credited With.** The credit to this account consists of the amount due the executors as per section 379.

382. **Closes Into.** This account will close when the executors have been paid the commission due them on the estate.

383. **Applicable to Administrators.** All remarks made herein also apply to the administrator.

Executors' Commission a/c.

Dr.		*Cr.*	
To		By	
Executors' Cash	a/c	Estate Corpus	a/c
		Estate Income	"

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SPECIFIC LEGATEES' A/C.

Showing Specific Legacies Paid by the Executor.

Applicable to Executors.

384. **General Remarks.** A specific legacy is a gift which is so described as to leave no doubt as to the exact piece or pieces of property intended for the legatee.

385. **What This Account Should Contain.** This account should contain payments of specific legacies as and when paid. Specific legacies do not usually consist of cash, but of stocks, bonds, portraits, furniture, goods and property which is of such a nature as to admit of a definite description. An example of a cash specific legacy is as follows: "I bequeath my savings bank deposit book No. 1 of the Sand Bank, and all rights thereto, to my son A."

386. **Opening Entry.** This account will be opened upon payment of the legacy by the executor to the specific legatee.

387. **Should Be Charged With.** Specific legacies as and when paid or delivered are charged to this account, but such entries will, ordinarily, be journal entries. Thus, assuming the following specific legacies to have been left by the testator:

100 shares S. O. R. R. stock to Jones	$2,000 00
Leasehold building to Smith	1,500 00
Mortgage to Brown	1,000 00

Journal Entry:

Specific Legatees' a/c	$4,500 00	
Jones, S. O. R. R. stock	$2,000 00	
Smith, leasehold	1,500 00	
Brown, mortgage	1,000 00	
To Estate Investments a/c		$2,000 00
Leasehold Property a/c		1,500 00
Mortgages Receivable a/c		1,000 00

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388. **Should Be Credited With.** No credits to this account are necessary until you are ready to close into Estate Corpus a/c, thus:

Journal Entry:

Estate Corpus a/c.....$4,500 00
To Specific Legatees' a/c..... $4,500 00

If, however, it is desired to credit the specific legatees first, closing the account by charging them when paid, as in section 387, the following entry can be made:

Journal Entry:

Estate Corpus a/c.....$4,500 00
To Specific Legatees' a/c..... $4,500 00

To place the following legacies to the credit of—

Jones.....$2,000 00
Smith..... 1,500 00
Brown..... 1,000 00

and then after paying the same make the entry as described in section 387, which is exactly the same process as that used when closing the account into Estate Corpus a/c.

389. **Closes Into.** As shown in section 388, this account may either close on distribution, or may be closed directly into Estate Corpus a/c with the filing of each administration account.

390. **Applicable to Administrators.** This account is never used by the administrator, for without a will there can be no specific legacy.

Specific Legatees' a/c.

Dr.		*Cr.*	
To		By	
Estate Investments	a/c	Estate Corpus	a/c
Leasehold Property	"		
Mortgages Receivable	"		

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SPECIFIC LEGATEES' INCOME A/C.

Showing Income Due the Legatee and Derived from Property Specifically Bequeathed to Him.

Applicable to Executors.

391. **General Remarks.** A specific legacy is a bequest by the decedent of some piece of property fully described, and in such a manner that no doubt can arise as to what is the particular bequest. A specific legacy vests on the death of the testator in such specific legatee, and the income likewise vests in him from (but not including) the date of death. Therefore, the executor should keep such income, right from the start, in a separate account. The following remarks apply only to income derived from specific legacies.

392. **What This Account Should Contain.** This account should contain all income derived from the specific legacy itself from the date of decedent's death. Thus rents, interest, etc., should be accrued and apportioned and the balance from (but not including) the date of death placed to this account. Dividends declared after the date of death on a specific legacy go to this account in whole, and should not be apportioned. If declared on or prior to date of death, though payable after death, they do not go to this account. Dividends are not apportionable except as stated in section 165.

393. **Opening Entry.** Assuming the testator's will to read "I bequeath to my son H my 500 shares Pa. R. R. stocks, certificate No. 400,005." Also assuming a dividend to be declared after testator's death, same amounting to $500, we have

Cash-Book Entry:

(Executors') Cash a/c.....	$500 00	
To Specific Legatees' Income a/c.....		$500 00

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If, however, this amount when received had been placed to the credit of Interest and Dividends a/c, the following entry would have to be made to correct it:

Journal Entry:

Interest and Dividends a/c	$500 00	
To Specific Legatees' Income a/c		$500 00

The idea is to keep the income derived from specific legacies entirely separated from the income on the rest of the estate, as the income derived from a specific legacy, and the legacy itself comprise one of the last assets to abate for the debts of the estate.

394. **Should Be Charged With.** This account does not close into any other account, and hence should be charged directly with the distribution of the accumulations. Now, assuming this account to show a credit balance of $500.00, permission having been given by the court to distribute such income to proper legatees, then make

Cash-Book Entry:

Specific Legatees' Income a/c	$500 00	
J. B.	$200 00	
K. B.	75 00	
A. B.	200 00	
L. B.	25 00	
To (Executors') Cash a/c		$500 00

395. **Should Be Credited With.** The credits to this account, as previously explained in section 392, consist of income derived from the specific legacy since the testator's death, governed by the rules of apportionment as given in Chapter VII, "Corpus and Income," page 63.

396. **Closes Into.** This account does not close into any other account. As described in section 394, when distribution of all the income takes place the account will close.

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397. **Applicable to Administrators.** This account is, of course, one which concerns the executors only. If there is no will there can be no legacy. Hence the administrator will have nothing in the nature of this account.

Specific Legatees' Income a/c.

Dr.		*Cr.*	
To		By	
Executors' Cash	a/c	Executors' Cash	a/c
		Interest and Dividends	"

PECUNIARY LEGATEES' A/C.

Showing Pecuniary Legacies Paid as Per Will.

Applicable to Executors.

398. **General Remarks.** All legacies that are not specific are general, and as most general legacies are pecuniary the latter name has been adopted for the purpose of illustrating this account (See Art. Legacies, p80). An example of a pecuniary legacy is as follows: "I bequeath to A. Jones $5000."

399. **What This Account Should Contain.** All pecuniary legacies paid by the executor (not specific or residuary legacies) should go into this account. It is far easier to throw them all into one account than open a separate account for each legatee, but this one account should show plainly each legatee, and the respective amount paid him.

400. **Opening Entry.** This account is opened when a legacy is paid. Suppose Jones to be paid $2000.00 and Brown $3000.00.

Cash-Book Entry:

Pecuniary Legatees' a/c	$5,000 00	
Jones	$2,000 00	
Brown	3,000 00	
To (Executors') Cash a/c		$5,000 00

and as each legacy is paid make a similar entry in the cash-book.

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401. **Should Be Charged With.** The debits to this account consist of the payments of the legacies as and when paid to the legatee as shown in section 400. Suppose, however, that Brown the legatee had owed the decedent $3000 and that the decedent in leaving Brown a like sum stipulated that Brown's debt to him should be collected. In a great many instances it will be found that no entry is made for a transaction of this kind, there being no money received or disbursed. It is necessary to make an entry, however, and the proper one under the circumstances is

Journal Entry:

Pecuniary Legatees' a/c	$3,000 00	
To Sperate Debts Receivable a/c		$3,000 00

Even if the testator had not stipulated that this debt of Brown's should be collected, the executors would have to do so anyhow. You must show its collection on your books and reports, because you have returned this debt through the court on your inventory of debts due the decedent under the "Sperate" classification. You must also show in your books that the legacy to Brown has been satisfied as per will. The journal entry last given does both.

402. **Should Be Credited With.** There are no credits to this account until you are ready to transfer the balance into Estate Corpus a/c. Then—

Journal Entry:

Estate Corpus a/c.
To Pecuniary Legatees' a/c.

403. **Closes Into.** As shown in section 402, this account can be closed directly into Estate Corpus a/c when the administration accounts are rendered.

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404. **Applicable to Administrators.** The remarks in this article do not apply to administrators, because a legacy requires a will.

Pecuniary Legatees' a/c.

Dr.		*Cr.*	
To		By	
Sperate Debts Receivable	a/c	Estate Corpus	a/c
Executors' Cash	"		

Residuary Legatees' A/C.

Showing Distribution of the Residue of the Estate.

Applicable to Executors.

405. **General Remarks.** After payment of all debts, legacies, and expenses, the balance remaining in the hands of the executor is the residue of the estate. A mere bequest of such residue does not constitute a specific legacy. Such a legacy is known as a residuary legacy. Residuary legacies may be payable in stocks, bonds, mortgages or whatever may compose the residue of the estate, and which is, of course, held to be of a distributable nature.

406. **What This Account Should Contain.** This account should contain all payments or distributions to residuary legatees. A separate account could be kept for each legatee, but by showing distinctly in this one account each legatee's share and payments to him the same result is obtained in more compact form.

407. **Opening Entry.** This account is opened when the executor is ready to make a distribution of the residue to the residuary legatees.

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408. **Should Be Charged With.** All residue distributed to residuary legatees should be charged to this account. Thus assume

J. Wood, Residuary Legatee, to receive:
$5,000 00 in cash.
10,000 00 in stocks and bonds.
2,000 00 in mortgage.
S. Wood, Residuary Legatee, to receive:
$3,000 00 in cash.
9,000 00 in stocks and bonds.
5,000 00 in mortgages.

Journal and Cash Entries:

Residuary Legatees' a/c	$34,000 00	
J. Wood	$17,000 00	
S. Wood	17,000 00	
To Cash a/c (Executors')		$8,000 00
Mortgages Receivable a/c		7,000 00
Estate Investments a/c		19,000 00

The above entry is made on delivery of the securities and payment of the cash to residuary legatees. Had there been any leasehold property or household chattels these would have been treated in the same manner.

409. **Should Be Credited With.** The division of the residue having been made and each share allotted, the following entry should be made:

Journal and Cash Entries:

Estate Corpus a/c.

To Residuary Legatees' a/c.
J. Wood, $
S. Wood, $

thus charging Estate Corpus a/c and placing the funds to the credit of the residuary legatees. And if cash be paid to residuary legatee—

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Cash Entry:

Residuary Legatees' a/c.
To Cash a/c (Executors').

And then

Journal Entry:

Estate Corpus a/c.
To Residuary Legatees' a/c.

410. **Closes Into.** This account will close after the entries described in sections 408 and 409 have been made.

411. **Applicable to Administrators.** Where Residuary Legatees' a/c occurs substitute Heirs-at-Law a/c and where the words "residuary legatees" occur substitute "heirs-at-law."

Residuary Legatees' a/c.

Dr.		*John Brown, Legatee.*	*Cr*
To		By	
Household Chattels	a/c	Estate Corpus	a/c
Estate Investments	"		
Mortgages Receivable	"		
Leasehold Property	"		
Executors' Cash	"		

John Jones, Legatee.

Estate Investments	a/c	Estate Corpus	a/c
Household Chattels	"		

Interest and Dividends A/C.

Showing Interest and Dividends Belonging to Estate Income.

Applicable to Executors.

412. **General Remarks.** This account is subsidiary to Estate Income a/c. As the surplus of Estate Income a/c is distributed direct to those entitled to the income it is important that the same

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should be freed of as much detail as possible. Therefore an Interest and Dividends a/c is opened, and into this account is closed Expense Income a/c and also the credit balance of the Distribution Adjustment a/c, and finally the balance of Interest and Dividends a/c is closed into Estate Income a/c for distribution.

413. **What This Account Should Contain.** All interest and dividends received and which, under the rules of "Corpus and Income" (Chapter VII) are income of the estate, should go to this account. Also any interest paid by the estate should be charged to it.

414. **Opening Entry.** Any interest or dividend received, or rent, which is income will require the opening of this account, the entry being—

Cash-Book Entry:

Cash a/c (Executors').
    To Interest and Dividends a/c.

415. **Should Be Charged With.** Interest paid out should be charged to this account. This account should also be charged with the balance of Expense Income a/c, the debit balance of this latter account being transferred to the debit of Interest and Dividends a/c when the executor is closing the books to render an administration account.

416. **Should Be Credited With.** The credits are the interest, dividends, rents and other income derived from the estate, and being income according to the rules hereinbefore referred to; also the credit balance of the Distribution Adjustment a/c.

Journal Entry:

Distribution Adjustment a/c.
    To Interest and Dividends a/c.

To transfer the balance from the former to the latter.

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417. **Closes Into.** After the Expense Income a/c and the Distribution Adjustment a/c have been closed into this account, then transfer the remaining credit balance of Interest and Dividends a/c to the credit of Estate Income a/c, thus closing Interest and Dividends a/c.

Journal Entry:

Interest and Dividends a/c.
To Estate Income a/c.

418. **Applicable to Administrators.** The remarks made herein will apply to the administrator.

Interest and Dividends a/c.

Dr.		*Cr.*	
To		By	
Expense Income	a/c	Executors' Cash	a/c
Estate Income	"	Distribution Adjustment	"
Specific Legatees' Income	"		

EXPENSE INCOME A/C.

Showing Expenses Charged Against Income.

Applicable to Executors.

419. **General Remarks.** The same general remarks made under Expense Corpus a/c will hold good here. (See page 178). In cases where it makes no difference whether or not the charges against corpus are kept separated from those properly chargeable against income, it is customary to charge as much against income as it can stand. This is easy enough, the difficulty arises to know what expenses the income alone is responsible for.

420. **What This Account Should Contain.** In a general way this account is strictly chargeable only with the following items:

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State, city and county taxes, insurance premiums, repairs or expenditures necessary to maintain property in good condition, executor's commissions on income, office and safe rents, stationery, stamps and miscellaneous small expenses.

421. **Opening Entry.** This account opens when the first expenditure chargeable against income is made.

Cash-Book Entry:

Expense Income a/c.
To (Executors') Cash a/c.

422. **Should Be Charged With.** This account should be charged with the expenses, when paid, as illustrated in the preceding section, such entries in the ledger being derived from the cash-book.

423. **Should Be Credited With.** There are no credits to this account unless for the correction of errors, and when you are closing the balance of this account into Interest and Dividends a/c.

424. **Closes Into.** This account closes into Interest and Dividends a/c when the administration account is rendered to the court.

Journal Entry:

Interest and Dividend a/c.
To Expense Income a/c.

425. **Applicable to Administrators.** The remarks made herein also apply to the administrator.

Expense Income a/c.

Dr.		*Cr.*	
To Executors' Cash	a/c	By Interest and Dividends	a/c

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ESTATE INCOME A/C.

Showing Income Derived from the Corpus.

Applicable to Executors.

426. **General Remarks.** This account should be used for the balances of all the income accounts when the executor is ready to render an administration account and distribute. The account which is directly subsidiary to and closes into this account is the Interest and Dividends a/c, the balance of which contains the net results of all the income accounts covering receipts and disbursements.

427. **What This Account Should Contain.** This account should contain the net balance transferred from the Interest and Dividends a/c after Expense Income a/c and Distribution Adjustment a/c have been closed into Interest and Dividends a/c. It should also show on the debit side the executors' commission on the income, and the distribution of the surplus.

428. **Opening Entry.** As stated, this account should be opened when the transfer of the balance of the Interest and Dividends a/c into this account is made.

429. **Should Be Charged With.** This account should, when you are ready to render your report to the court and distribute, be charged with the executors' commission on the income, and then with the distribution of the surplus.

Journal Entry:

Estate Income a/c.
    To Executors' Commission a/c.
Being commission due them for collecting the income.

Cash-Book Entry:

Estate Income a/c.
    To (Executors') Cash a/c.
        Surplus income distributed to:
            J. B.....$50 00
            A. B..... 50 00
            M. B..... 50 00

This account should after such distribution close.

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430. **Should Be Credited With.** The only credit to this account is the Interest and Dividends a/c, the balance of which is transferred to the credit of this account when you are ready to render your report and distribute—

Journal Entry:

Interest and Dividends a/c.
To Estate Income a/c.
Transferred from the former to the latter.

431. **Closes Into.** As shown in section 429, this account closes when all the income has been distributed.

432. **Applicable to Administrators.** The remarks made herein also apply to the administrator.

Estate Income a/c.

Dr.		*Cr.*	
To		By	
Executors' Commission	a/c	Interest and Dividends	a/c
Executors' Cash	"		

Distribution Adjustment A/C.

For the Purpose of Adjusting and Retaining for the Estate, Income Accrued to Date of Distribution. Same to Be Distributed to Residuary Legatees.

Applicable to Executors.

433. **General Remarks.** When ready to distribute bonds, stocks, mortgages, etc., to residuary legatees, the share of each legatee having been allotted, you must, to be correct, accrue all interest on such as bear interest (interest accrues *de die in diem*) up to but not including the date of distribution and retain such interest accrued to said date for further distribution among the legatees pro rata, or in the same proportion and on the same conditions under which they received the principal.

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And in regard to the dividends on the stocks so distributed,—dividends not being apportionable in this instance,—it can be seen that the estate is the "stockholder of record" up to the day of distribution. Hence a transfer of such stocks to the residuary legatee on the transfer books of the corporation concerned, as of, or later than the day of distribution, insures that all dividends declared prior to the day of distribution will come into the hands of the personal representative of the estate. The executor or the administrator can have no title to a dividend which has been declared on or subsequent to date of distribution, even though formal transfer has not been made on the books of the corporation issuing such stock. The dividend in this case is the property of the legatee or owner of the shares at the time of declaration. Yet it must not be overlooked that while the title to the dividend may not vest in the executor, if it is declared prior to the formal transfer on the books of the corporation, but subsequent to the actual transfer by the executor to the residuary legatee of the shares producing said dividend, the executor will receive it when paid. In such a case as outlined above, the executor should deliver the money to the legatee and not retain it, nor should he carry the same through his administration account. To avoid this, credit such dividend check when received to the personal account of the legatee and draw a check of the estate in exchange, thus charging and thereby closing the personal account and effectually separating this item from those of administration. And as regards interest, coupons, and other interest accrued, but not paid on the date of distribution, the executor should on the delivery of such interest-bearing securities receive a check or cash from the residuary legatee for such interest as has accrued to but not including date of distribution. It might be noted that the law does not in all cases require the retention by the executor of such accrued interest, or of dividends paid after but declared prior to date of distribution, and

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in nearly all cases where not so required, this is not done, it being deemed too troublesome. It is, however, upheld and sanctioned by law as being the most correct and equitable mode of delivery of such securities.

434. **What This Account Should Contain.** It should contain all interest accrued up to date of distribution as ordered by and subsequently reported to the court. Since dividends are not apportionable they would not appear in this account.

435. **Opening Entry.** Assuming that a distribution to residuary legatees has been ordered to be made as of April 1st.

Assuming distribution made to—

A One bond, current 6 months' coupon, due 7/1.....$30 00
B One bond, 3 months' current coupon, due 4/1..... 15 00
C 10 shares of stock (no notice as to dividend).....
D 10 shares of stock (no notice as to dividend).....

Now on, and as of date of delivery accrue the interest on the bonds to March 31st, inclusive, and make entry—

Journal Entry:

Residuary Legatee "A" Personal a/c.....$15 00
Residuary Legatee "B" Personal a/c..... 15 00
To Distribution Adjustment a/c..... $30 00
Being three months' accrued interest on current coupon of A's bond and all the matured coupon of B's bond.

Of course, in the above, the coupon could have been clipped from B's bond before delivery, same having matured March 31. Now when making delivery of the bonds to A and B get their respective checks for $15.00 each and make entry—

Cash-Book Entry:

Cash (Executors').....$30 00
To Residuary Legatee "A" Personal a/c..... $15 00
Residuary Legatee "B" Personal a/c..... 15 00
Being their checks received for accrued interest to date of distribution on bonds delivered to them. (See journal entry, April 1st.)

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Now assume that on April 10 the executor receives a dividend check in payment of dividend declared March 31st on the 10 shares delivered to C. Also that the same have not been formally transferred on the books of the corporation until April 5th, that is four days after distribution. This dividend belongs to the estate; therefore make

Cash-Book Entry:

Cash a/c (Executors').
To Interest and Dividends a/c.

Being dividend No. 75 on 10 shares of stock, declared March 31 (one day prior to distribution of the shares to C).

Assume that on April 10th the executor receives dividend check in payment of dividend declared on April 1st on the 10 shares delivered to D. Also that the same have not been formally transferred on the books of the corporation until April 5th (four days after distribution). This dividend belongs to D, for D became the owner of these shares on the day the dividend was declared. Therefore make

Cash-Book Entry:

Cash a/c (Executors').
To Residuary Legatee "D" Personal a/c.

Being dividend No. 74, declared April 1 (the day of distribution of shares to legatee D), but received later by the executor owing to delay in the formal transfer of these shares from the name of the estate to the name of legatee D on the books of the corporation.

Now draw a check in favor of legatee D for the same amount and make entry—

Residuary Legatee "D" Personal a/c.
To Cash a/c (Executors').

Being dividend received by executor as per contra entry this date.

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436. **Should Be Charged With.** There should be no debits to this account until the transfer of the credit balance by journal entry into Interest and Dividends a/c is made.

437. **Should Be Credited With.** The credits to this account are all items of accrued interest to date of distribution to residuary legatees.

438. **Closes Into.** Since the items acrued to date of distribution may not, and most probably will not be distributed until a subsequent distribution, it is not necessary to close this account until then; but in any event, close it as of the date of distribution, transferring the credit balance to the credit of Interest and Dividends a/c, this latter one being directly subsidiary to Estate Income a/c.

Journal Entry:

Distribution Adjustment a/c.
    To Interest and Dividends a/c.

439. **Applicable to Administrators.** All remarks made herein apply in principle to the administrator. For "Residuary Legatee" substitute "Heir-at-Law."

Distribution Adjustment a/c.

Dr.		*Cr.*	
To Interest and Dividends	a/c	By Residuary Legatees' Personal	a/c

Residuary Legatees' Personal a/c.

Dr.		*W. Jones.*	*Cr.*	
To Distribution Adjustment	a/c		By Executors' Cash	a/c
Executors' Cash	"			

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CHAPTER XI.

THE TRUSTEE, HIS RIGHTS, DUTIES AND LIABILITIES.

A general outline of the doctrine of trusts, and their relation to the Equity Courts with particular reference to testamentary ones, has already been treated in this book. (See Chapter IV, page 41). The object of this chapter is to answer a lot of practical questions on trusts, which may confront the trustee and his accountant, preliminary to taking up of the accounting in detail, which will be done in the next one.

440. **Title to Trust Property.** In every trust, whether testamentary or not, there are two estates (or interests), that of the trustee or the legal estate and that of the beneficiary or the equitable estate. The two estates are separate, although bound together and traveling on parallel lines.

The estate of the trustee consists in the ownership of the property itself (by statutory enactments in most code States) and that of the beneficiary in his right, in a court of equity, to compel the trustee to carry out the provisions of the trust, but not in any title in the property itself. Thus, a trustee is both in a court of law or equity the absolute owner of the trust property as against the whole world, and may even eject the beneficiary from the premises, and is accountable to no one but the beneficiary for the use of the ownership.[1]

Following out this theory we find that the trustee, holding the legal title, can vote as a stockholder or be elected a director of a corporation, whereas the beneficiary cannot do so. In most States this is covered by statute.[2]

[1] Loring, pp. 25, 26.
[2] Loring, p. 27.

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441. **Personally Liable as Owner of Property.** That a trustee should be very careful in the performance of his trust is shown by the fact that he may be personally liable, being legal owner of the property, for any nuisance or for any negligent use of the property and damage arising therefrom. Common examples are as follows: A person being injured by snow falling from the roof of a building; or getting hurt because the sidewalk is out of repair. Again, he may be liable for causing or allowing water to overflow on to the property of a neighbor. If the damage is not caused by the negligence or fault of the trustee then he may charge the property, but if the damage is greater than the value of the trust property he will be personally liable irrespective of his right to charge the trust property.[3]

It is also well to remember that a trustee may be criminally indicted for any nuisance conducted on the trust property as well as for not abiding by liquor or gambling laws.[4]

442. **Trustee's Title Cannot Be Beneficial to Him.** Although the legal title of the property is in the trustee he cannot derive any benefit from it. He may only handle the funds so as to make them profitable for the trust; under no conditions can he make deals with the property so as to bring returns to his own pocket. The trust income or profits do not belong to him any more than if the title to the property was in a stranger.[5]

443. **Trustee's Title Should Not Be a Burden.** On the other hand, it is not the idea that the trusteeship should be a burden; therefore all the legitimate expense which the trustee incurs as owner, such as taxes, repairs, insurance, costs of litigation, etc., may be charged by him against the estate.[6] The word "estate" is used here in a general sense, meaning both corpus and income, in short all the

[3] Loring, pp. 29, 30.
[4] Loring, p. 31.
[5] Loring, p. 32.
[6] Loring, p. 35.

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funds in the hands of the trustee. The question as to which of these expenses are chargeable against the corpus proper and which against income will be taken up later. (See sec. 456.)

444. **Compensation or Commissions.** In one or two States the trustee is allowed no consideration for his services, but in all other States he is entitled to reasonable compensation. The commission is generally fixed by statute or rule of court and is usually based on the gross income collected and ranges from 5 to 10 per cent. In certain cases extra compensation is granted where extra work is necessary, as, for example, in the sale and conversion of real estate, or the difficult settlement of a large claim.[7] The trustee as well as the personal representative should remember that commissions are not paid for any sums of money which have been paid out of the estate corpus or income and are returned, as return premiums for instance.

445. **Trustee Responsible to the Court.** It devolves upon the trustee to use sound discretion in the execution of those powers which are incidental to his office, or which are conferred on him by the legislature or court. Should he not do so he will find himself called to task by the court for being derelict in his duty. On the other hand, if the trustee has acted in good faith without any selfish motive, and has been found wanting, the court will treat him with indulgence; and especially if he has acted under advice of counsel. If a trustee has any doubt as to his duty, his best course is to ask, through his attorney, for the instruction of the court before he acts.[8]

446. **Powers of a Trustee.** "The general powers incidental to the office are limited to and comprise all those that are necessary to the performance of his duties, such as power to demand, receive, and sue for the trust property, or any income accruing on

[7] Loring, p. 36.
[8] Loring, pp. 59, 60.

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it; to invest the funds and lease the real estate; to take proper measures to keep the real estate repaired and insured, and to defend suits against him in respect to the property, or against him as trustee; to disburse and distribute the property; to protect the beneficiary, or maintain him if incapable of maintaining himself.

"The powers to sell the trust property, and to change investments, and to convert real into personal estate and vice versa, are usually bestowed on the trustee by the legislature or court, but are special, and not general and incidental to the office, since the original conception of a trustee was someone to be trusted with the title to the property, and not a sort of business manager, as the office has more and more become.

"The trust instrument itself may, and usually does, confer in express terms the powers which the court or legislature gives; and it usually enlarges the general powers incidental to the office."[9]

"Implied powers are also often given by the trust instrument where it places a duty on the trustee, and neglects to give expressly the powers to perform it; and in every such case the trustee will take by implication all the powers necessary to execute his duty. As, for instance, where a trustee is to borrow money on mortgage, he may give a mortgage containing a power of sale, or where he is to keep the estate safely invested he will have implied power to sell hazardous investments left by the maker of the trust."[10]

447. **Duties of Trustees.** It is the duty of the trustee to gather in and protect the trust property. He must sue for it, or for any damage to it, and to defend suits in which he is involved as trustee, employing counsel when necessary.[11]

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[9] Loring, p. 53.
[10] Loring, p. 54.
[11] Loring, p. 75.

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It is also his duty when the beneficiary is under a disability to see that he has proper care and support. If insane the trustee should have him declared so, and if for any other reason incapable of caring for himself the trustee must maintain and support him out of the funds which he would otherwise pay over to him; and accumulate any balance not needed.[12]

448. **What May Be Trust Property.** The kind of property which may be held in trust may be any property, real or personal or mixed, whether it be in possession, vested or contingent, within the jurisdiction of the court or without.[13]

449. **Duties of Trustees in Taking Over Property.** The first thing a trustee should do on taking charge of an estate is to examine the executor's accounts and ascertain that he is getting all the estate which he is entitled to. Then he should be particular to have all registered bonds, notes and certificates of stock in his name, or if there be several trustees, in the names of all the trustees. Moreover, they should specify on their face the trust under which they are held, so that there can be no question as to what trust the securities belong. To describe the holders as "trustees" merely is not sufficient, as it is not apparent to what trust the property belongs and no sensible purchaser will take a transfer of such property without further assurance.[14] "The transfer should be made without delay; on a note by indorsement, and on a stock certificate or registered bond by indorsement and transfer on the books of the company."[15] Immediately he should call in all claims which are due, "unless they are such as constitute a proper trust investment; and if necessary the trustee should sue without delay, unless he can show that more is to be gained by forbearance, not

[12]Loring, p. 83.
[13]Loring, p. 98.
[14]Loring, p. 101.
[15]Loring, p. 101.

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only for these, but for any of the trust property which he cannot obtain on demand."[16]

450. **Time When a Trustee Takes Over Property from an Executor.** Of course, if the trustee is appointed under a will he will not be entitled to the property at once, because until the executors have administered the estate they are entitled to hold it. Where the same persons are executors and trustees they are entitled to and liable for the property as executors until they close up the executorship by filing in court an account crediting themselves as executors with the trust property, and qualify as trustees; or do some other definite act showing a transfer.[17]

451. **Care of the Trust Property in General.** Then after taking over the property the trustee must take the same care of it which any bailee is bound to take of the property placed in his charge, or such care as a prudent business man would use in handling his own affairs.

452. **Care of Real Estate.** The trustee must see that the real estate is insured, and he must pay the fixed charges such as taxes, etc., on the same. Should the property not be in fit condition to rent he should put it into such shape as to make it productive. If the property is unimproved he may improve it so as to secure a tenant, but he should be very careful to have the proper power bestowed upon himself either by the trust instrument or an order of court; because he might suddenly awaken to the fact that he has converted some of the personal property of the estate into real estate and this might be objectionable to the beneficiaries, who would promptly rush into court.[18]

453. **Care of Personal Property.** (a) *Cash.* If the trustees have any cash belonging to the estate they should deposit the

[16] Loring, p. 101.
[17] Loring, p. 100.
[18] Loring, p. 102.

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same in the joint names of all of the trustees, for if it is deposited in their individual names the trustees will be liable for it, even though lost, without their fault, in a bank failure or otherwise.

Moreover, the trustees are responsible for money left for more than a temporary purpose in the name of one. It is customary, and probably without fault to give one trustee power to draw checks against an account which consists wholly of income, but it is very bad policy to permit large amounts of principal to be in the bank subject to the draft of one of their number.[19]

(b) *Investments.* It is the duty of trustee to keep the trust funds at all times fully invested, and if he neglects doing so he will be liable for interest for the period during which he was not as alert and active as he should have been.[20] If, on the other hand, the property is well invested the investments should not, without a good reason, be changed. Such reasons might be that an investment has become insecure, and the remainderman is likely to suffer loss, or because it has become unproductive and the life tenant is not getting what he ought to or might get.[21]

When making investment for the estate the trustee must remember that his duty is a double one. First, his investment must be secure so that the corpus of the trust is preserved intact for the remainderman; and secondly, it must be productive so that it will yield the current rate of interest to the life tenant.[22] The trustee should take great care with his investments because if the life tenant and the remainderman are not on the best of terms, he may have trouble.

454. **May Invest In.** "What classes or kinds of investments are trust investments vary in different jurisdictions, and are determined in some by statute and in others by rule of court. Statutes

[19]Loring, p. 103.
[20]Loring, p. 109.
[21]Loring, p. 111.
[22]Loring, p. 111.

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in some jurisdictions are construed to be for the protection of the trustee merely, and not as forbidding other investments than those specified by law; yet where such a statute exists, a trustee would be imprudent if he invested in other than the specified securities, although he might be justified in not converting unspecified securities, if he took them from the testator."[23]

455. **Corpus and Income.** Even though the executor of an estate has qualified as a trustee he cannot altogether escape the question of what part of the receipts is corpus and what part is income. It is hardly necessary to say that if this question is not properly decided the trustee may find himself liable for a large amount, because of moneys which he has paid out to the life tenant and which should have been invested as principal of the estate for the benefit of the remainderman, or vice versa. Of course, under certain conditions, he might have the right to recover this money, but if it has been spent or the party who improperly received it, is dead, he would find himself with a hard nut to crack.[24]

Generally in the case of a testamentary trustee most of the assets of the estate have been collected before they are turned over to him, and he receives them as principal; all the yearly increase thereafter being income. Where a trustee has not been appointed by will this is different, as the collecting and the classifying of the assets is his duty.[25]

The rules covering corpus and income as given in detail for the use of executors and administrators, will also serve the trustee (See Chapter VII, p 63).

456. **Charges Against Corpus or Income.** Next we come to the question of what outlays, made by the trustee, should be charged against the corpus, and which against the income. We will take up some of the more important of these items in detail.

[23] Loring, p. 112.
[24] Loring, p. 121.
[25] Loring, p. 122.

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(a) *Gain or Loss.* "The general rule is that any gain other than the usual yearly income, and any loss, other than the usual yearly charges, fall to the principal of the fund."[26]

(b) *Discharge of Encumbrance.* "If there is an encumbrance on the estate, as, for instance, a mortgage, if at once discharged it is paid from the remainder, but if carried the interest is chargeable to income, and the principal to the corpus of the fund, and this is true even when the estate is not charged until a long period, say ten years,—after the settlement.

"Similarly, where the trustees are compelled to discharge an involuntary encumbrance, such as a betterment assessment or judgment, the cost is apportioned between income and principal. The whole amount is charged to principal and deducted from the estate of the remainderman, and the income is charged interest thereon yearly, or the interest may be funded and charged in a lump; or if the life tenant and remainderman are beneficiaries of the same funds, the principal is paid out of the corpus, and the life tenant loses interest and the remainderman the principal."[27]

(c) *Alterations and Repairs.* "Alterations and additions to real estate whereby the usefulness or rental value is increased are chargeable to principal, but the repairs or expenditures which are necessary to maintain the property in its previous condition are chargeable to income.

"It is often a difficult question of fact to decide whether a specified expenditure is an addition to the property or a current repair; but the rule may be stated that, where repairs improve the property to the extent of their cost, they are chargeable to principal, and are a judicious investment of the trust funds."[28]

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[26] Loring, p. 124.
[27] Loring, p. 137.
[28] Loring, p. 138.

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(d) *Taxes.* The general rule is that "all annual taxes, except those assessed on vacant land, are charged to income."[29] But some States also make the latter payable out of the income. The argument in favor of charging the vacant land taxes and all costs of preserving it against the principal is that since the vacant land yields no return to the life tenant, he might use up all his income keeping the property in condition. To support the other ruling we have the contention that if the life tenant derives the benefits of an estate he should also bear the burdens.

"Special assessments, such as betterment assessments, sewer taxes, etc., are chargeable to principal or are apportioned as specified."[30]

(e) *Insurance.* "Insurance premiums are expressly chargeable to income by the terms of most carefully drawn trust instruments, and where no express provision is made in the instrument the general practice is to charge them to income.

"In case of a partial loss, the funds recovered would be used in repairing. In case of a total loss, the fund should be invested, and could be used in rebuilding if such an investment is authorized, and will retain its character as real estate, although it may be otherwise where the insurance existed at the time of the will, as in such case the policy was a personal asset at the outset.

"If the life tenant insures the property, the remainderman has no claim on the fund recovered, the contract of insurance being merely to indemnify the individual for his loss. The fund recovered does not represent or stand in the place of the building destroyed. But where a trustee insures the building, he will insure all his interest which is subject to the claim of both life tenant and remainderman, and in such case the fund recovered would

[29] Loring, p. 139.
[30] Loring, p. 140.

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stand in the place of the property destroyed as the property of the remainderman of which the life tenant has the use."[81]

(f) *Expenses.* "The charges of the trustees for managing the property, which are by the way of a commission on income, are charged to income. Extra charges for services which are beneficial to the fund are charged to principal, or may be apportioned equitably.

"Brokers' commissions on change of investment, where it was expressly provided that all expenses were to be charged to income, were properly classed as expenses and charged to income, but in the purchase or sale of real estate the brokers' commission is in practice considered as part of the price of the property, and so is generally charged to principal, and would probably be allowed so generally; and in the absence of expressed intention, the same reasoning would seem to apply to the purchase of stocks and bonds.

"Legal expenses of settling the interpretation of the trust instrument, the cost of obtaining the instructions of the court, or appointment of new trustees are borne by the principal, and so also the expenses of recovering the fund, or paying it out, and of the final accounting. So also the legal expenses of protecting the property; but the legal expenses of collecting the income, or of determining the matter of payments chargeable to income, fall naturally to income."[82]

As to the expense of accounting, it is the general rule that "it is the trustee's duty to make up an account; therefore ordinary compensation covers the making up of the account, but any court charges will be borne by the trust estate, unless the trustee was at fault in not accounting, in which case he may be ordered by the court to pay the costs."[83]

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[81] Loring, p. 140.
[82] Loring, p. 141.
[83] Loring, p. 95.

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457. **The Distribution of the Trust Fund.** When it comes to the distribution of the trust fund a trustee must be very careful because if he pays the wrong amount or the correct amount to the wrong person he is responsible for the loss, even though he may have acted with discretion. The only safe way to do is to get a decree of distribution from the court. In most States statutes exist giving the Probate Courts authority to decree distribution in the case of testamentary trusts; in others the trustee can pay the fund into court and let it take care of the distribution.

Of course, in the case of trusts not created by a Probate Court or where there is no statutory enactment giving such authority to the Probate Courts, the trustee must resort to the Court of Equity.[34]

458. **Liability of Trustees.** "The trustee is liable to his beneficiary for any loss of the trust property arising from his neglect of duty. As, for instance, where the trust is created, and he neglects to collect or secure the property, or inexcusably allows rents to fall in arrears.

"Thus, if he neglects to insure where it is his duty to do so, he will be liable for the loss, or if he neglects to invest, he will be liable for interest."[35]

Though the trustee "will not be liable for the acts and crimes of strangers through which the property is lost, if he has done his duty in taking care of the property, as, for instance, where the property is properly deposited and then stolen, yet if he has been remiss in his duty he will be liable for any loss that may occur in any manner; as, for instance, if he has mingled the trust money with his own funds in the bank, he will be liable for the loss by the failure of the bank; while if the property were deposited in the

[34] Loring, pp. 142, 143.
[35] Loring, p. 147.

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names of the trustees, they would not be liable unless they were careless in selecting the depository."[36]

Again, should the trustee invest the trust property "in securities in which he has no power to invest, even though honestly, he will be liable; as, for instance, where the trustee was authorized to invest in real security, and held railroad bonds believing them to be authorized, he was held liable."[37] The same holds good should the trustee pay the wrong person.

"The trustee is held to perform his duties with reasonable discretion, that is to say, with the same intelligence that a reasonable man would use in the transaction of his own affairs; the fact that he is incompetent is no excuse. He must be at the pains to learn his duties. For instance, it being the duty of the trustee to invest the trust funds, if he invests too large a proportion in certain securities, or if he uses poor judgment in investing, he will be liable for the loss, irrespective of his honesty. But he is not supposed to be infallible, and where he has acted with that amount of discretion which an ordinary prudent man uses in his own affairs, and honestly, he will be protected; and even where he has acted in good faith only the court will treat him leniently, and give him the benefit of the doubt, especially if he is acting under advice of counsel, since this fact shows that he used due diligence, though it is not in itself an excuse."[38]

459. **Trustees' Reports, Schedules and Accounts.** If the trust estate is a testamentary one, the statutes in practically all of the States will require him to file an inventory soon after appointment. After this the trustee must keep a set of books and render from time to time his reports to the court. These reports strictly speaking consist of a general statement of all transactions with refer-

[36] Loring, p. 148.
[37] Loring, p. 152.
[38] Loring, p. 152.

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ence to the care of the estate, supplemented by detail schedules which are filed as exhibits with the report. The reports are handed over to some court official, who is an auditor, to pass on and state an account which is then ratified by the court and filed with the clerk. Generally these reports must be made annually, but the rules of the court in different States must be consulted for more definite information along this line.

A trustee should be very careful that his trust accounts (meaning those that he keeps and not those stated by the auditor) are kept separate and accurately, for should they be inaccurate or obscure, he will some day find himself the loser, as the beneficiary is always given the benefit of the doubt.

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CHAPTER XII.

TREATMENT OF TRUST FUNDS, REPORTS, SCHEDULES AND ACCOUNTS.

460. **General Remarks.** This article deals with testamentary trustees, their funds, duties and the entries relating thereto.

461. **Court of Jurisdiction.** Testamentary trustees are under the jurisdiction of a Court of Equity, or a Probate Court having equity powers conferred upon it.

462. **Executors Also Testamentary Trustees.** The executor takes charge of all the property of the decedent, and should the testator have designated a general fund to be held in trust for some specified purpose it is customary and usual for such executor to be named by the testator as trustee of the fund, and such trustee would, in the course of settling the estate, receive from himself as executor such fund in trust. Hence, an executor may often find himself acting in the double capacity of executor and trustee, if only for a time; and such offices should, for obvious reasons, be kept separate and distinct. The executor who is also acting as a trustee for part of the same estate, need not, nor should he, keep separate sets of books for each office, but he should not fail to show distinctly in his books that which he administers on in his capacity of executor, as distinguished from that which he administers on in his capacity as trustee.

463. **Life Tenant and Remainderman.** All trusts have for their immediate object the preservation of the corpus of the fund, while the income derived therefrom is generally directed to someone, or

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some undertaking outright. There are, therefore, two important factors in trust estates—

(1) The Life Tenant, who receives the income derived from the corpus held in trust, he having the present enjoyment.

(2) The Remainderman, the one to whom the corpus of the fund goes upon the death of the life tenant, or at the expiration of such life tenant's interest in the trust.

Here, again, we meet the very important question of, what is corpus and what is income? Since the life tenant gets all income, and the remainderman what is left of the corpus at the expiration of the trust, this question is of the same interest to the trustee as it was to the executor. The rules given in Chapter VII on Corpus and Income also hold good here; but for more detailed information on Corpus and Income of Trust Funds, see page 78.

464. **The Accounts.** The accounts should be kept distinctly, showing that which is the ultimate property of the remainderman, and that which is the property of the life tenant. And again, money invested should not be mingled in the same account with money not invested, hence—

(1) Corpus investments should be separated from corpus cash.

(2) Income should be separated from both corpus investments and corpus cash accounts. In other words, Income a/c should contain only cash income.

465. **Trust Funds.** The scope of this book will not allow us to give all the different kinds of trust estates which may occur and then trace the different entries through to their final settlement, so two of the commoner ones, and also more suitable for illustration and explanation, will be presented.

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(1) A leaves a certain sum of money to T in trust for the use of B during his natural life, but at the death of B the corpus of the trust is to revert to the estate of A for general distribution.

(2) A leaves a certain sum of money to T in trust for the use of B during his natural life, with the power in B to will the corpus.

Now, in wills there is often found a stipulation somewhat as follows: "I desire my executors to pay to B annually during his natural life a sum of two thousand dollars ($2000.00)." In short, we find an annuity. Of course, the two thousand dollars must be secured, whether the testator directs so or not. Therefore, the executors (not the trustees in this case) ought to retain sufficient interest-bearing securities (usually bonds) from the corpus assets of the estate to raise this annual sum, and a reasonable excess to guard against shrinkage. In this case, unlike the two foregoing cases in paragraphs (1) and (2), we have no trustees, and strictly speaking it is not a trust fund at all, but it is so closely allied to, and treated as such a fund that it has been thought proper to include it in this article. The estate while it holds the guarantee (the bonds) for the annuity in the names of the executors of A has only a contingent title in such stocks or bonds, or whatever interest-bearing security is held. The time of the return of the securities to the estate for distribution is entirely contingent on the death of the annuitant.

Now in connection with the three cases last cited remember this—

In the first two cases, the executors at the proper moment transfer to themselves as trustees certain stocks and (or) bonds, and they are transferred at the court's appraised value. Should any part of the sum so transferred be cash (which the tustees will in due course of time invest so as to bring income) they transfer this cash from the Executors' Cash a/c to the Trustees' Cash a/c in the ledger through the cash-book and by use of their respective columns in the latter.

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In the case of the annuity, the executors hold the guarantee for it in their names as executors, at the court's appraisement. However, the court which assumes jurisdiction over the trusts, will, in all probability, assume jurisdiction over this fund also.

Now suppose, as in the first case, A. Jones leaves in trust for the use of B. Black a certain sum, the income of which shall go to Black, and, at Black's death, the corpus to revert to the estate of A. Jones for general distribution. Let us also assume that the executors of A. Jones are to act as trustees for this fund; and that they deliver to themselves as trustees

$300,000 00 in securities.
10,000 00 in cash.

And, as in the second case, suppose that A. Jones leaves in trust for C. Smith a certain sum, Smith to have the income thereof for life, and the power to will the corpus of the fund as he pleases. Also let us assume that Jones' executors are trustees for this fund, and that these trustees receive from themselves as executors

$200,000 00 in securities.
10,000 00 in cash.

466. **Journal Entries.**

First Journal Entry:

Estate of A. Jones a/c	$500,000 00	
To B. Black Trust Security a/c		$300,000 00
C. Smith Trust Security a/c		200,000 00

This entry charges the estate of A. Jones, and transfers in trust for Black and Smith, the respective securities. The securities are transferred at the court's appraisement, as per inventory of the estate rendered to the Probate Court.

Second Journal Entry:

Trustees' Investments a/c	$500,000 00	
To Estate Investments a/c		$500,000 00

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This entry relieves the executors of the charge against them, and charges them with the same amount (as per court's appraisement) in their capacity as trustees, these being the securities transferred for the account of Black and Smith.

It will be noted that in the case of Black, the estate and its executors have a contingent title in this trust fund held by them as trustees (contingent on the death of Black) for at Black's death it reverts to the estate. In the case of Smith, the corpus of the trust will not revert to the executors of A. Jones since we assume that Smith will make testamentary disposition of the same as per power conferred upon him by the testator. But in the case of Black the executor can have no title until Black's death occurs, and hence the account should show in whom the present title is vested as between the executor and the trustee.

The reversion of such fund will be assumed to revert to the executors.

467. **Cash-book Entry.** Now we come to the cash entry, i. e., that portion of the trust funds which is paid by the executors to themselves as trustees in cash, the same to be invested by the trustees so as to produce income for the benefit of Smith and Black, according to their respective corpus investments.

Cash-Book Entry:

	Executors.	Trustees.		Executors.	Trustees.
To Balance...	$30,000 00		By Estate of A. Jones a/c —to Smith & Black in trust.....	$20,000 00	
" C. Smith Trust Cash a/c—as per will.....		$10,000 00	By Balance...	10,000 00	$20,000 00
" B. Black Trust Cash a/c—as per will.....		10,000 00			
	$30,000 00	$20,000 00		$30,000 00	$20,000 00
To Balance...	$10,000 00	$20,000 00			

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It will be seen that the above entry in the cash-book is nothing more than a journal entry, but, as it is a cash transaction and involves a transfer of cash funds from the Executors' Cash a/c to the Trustees' Cash a/c it is necessary to put the same through the cash-book.

The $20,000.00 disbursed by the executors and given to the trustees was merely a transfer of funds from one to the other without the drawing of any checks, for in this instance the executors are both executors and trustees. The single items in the cash-book are posted as always and then the totals of the respective debit and credit columns are posted, less the balances of the previous and current months respectively, to the debit and credit of Executors' and Trustees' Cash Accounts in the ledger. That is, the totals of the columns posted will be actual receipts and actual disbursements. The cash-book should be closed at the end of each month, and this will allow a monthly posting of the total columns.

In the last cash-book illustration in this article, transfer was made from the Estate of A. Jones a/c to the credit of B. Black and C. Smith in the sum of $10,000.00 each. This entry (by use of the cash-book column totals above described) relieved the Executors' Cash a/c in the ledger of $20,000.00 and charged the Trustees' Cash a/c in the ledger with a like sum.

468. **Entry When Income Is Collected.** The next entry will occur, say, when the income (interest, dividends, etc.,) on the securities invested comes in. Open an account for each life tenant as follows:

B. Black Trust Income a/c.
C. Smith Trust Income a/c.

and, as the income is received,

Debit Cash (Trustees' column).
Credit B. Black Trust Income a/c.
" C. Smith Trust Income a/c.

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and when you pay either Black or Smith the income which is due them,

Debit B. Black Trust Income a/c.
" C. Smith Trust Income a/c.
Credit Cash (Trustees' column).

469. **Entries When Cash Is Invested.** Now suppose that Black's $10,000.00 in cash is partly invested by the trustees so as to produce income—

Cash-Book Entry:

B. Black, Trust Cash a/c.....$9,810 00
To (Trustees') Cash..... $9,810 00

For 10 U. S. 4's, due 1925, at 98 and commission,

using, of course, the trustees' columns in the cash-book. Remember, also, that any future sale of this particular purchase is handled at the net purchase price (98) so far as the Trustees' Investments a/c and the B. Black Trust Security a/c is concerned. The court must sanction the purchase before it can be made, and hence the price paid is the basis of the future book value of such purchase. Now we have seen that by the last entry, by which the purchase of the bonds was recorded, B. Black's Trust Cash a/c was charged with the purchase, and cash (Trustees' Cash a/c) was relieved of a like amount. Yet after this is done there is nothing to show that the trustees have charged themselves with the securities, so that the following entry is next in order. (Do not include the broker's commission in this entry, but allow the first entry, the cash entry, to take care of such expense.)

Journal Entry:

Trustees' Investments a/c.....$9,800 00
To B. Black Trust Security a/c..... $9,800 00

For 10 U. S. 4's at 98. For commission paid see cash entry.

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This entry charges the trustees with the securities at 98 net and credits B. Black's Trust Security a/c with the same, thus allowing the brokerage of $10.00 to be disposed of in the first (cash) entry. It is much easier to carry a stock or bond at 98, than to carry it and keep track of it at 98 plus $10.00 commission. You can do it that way, but in estate accounts it will be found a very troublesome method to adopt and follow out. As to accrued interest on bonds purchased see section 260.

470. **Entries When Securities Are Sold.** Now suppose that the trustees for some reason decide that it is better to dispose of these bonds, and, having secured the court's sanction to do so, they sell.

Cash-Book Entry:

Cash (Trustees' column).....	$11,000 00	
To B. Black, Trust Cash a/c.....		$11,000 00
For 10 U. S. 4's sold at 110.		

This entry shows that the trustees charge themselves through the trustees' column of the cash-book with the net proceeds of the sale and credit Black's Trust Cash a/c with a like amount, this being a part of Black's corpus trust fund. And, having made the cash-book entry as above, it is now necessary to make—

Journal Entry:

B. Black, Trust Security a/c.....	$9,800 00	
To Trustees' Investments a/c.....		$9,800 00

Originally, B. Black's Trust Security a/c was credited with the purchase ($9800.00) and the same having now been sold this account is debited, but only with the amount with which it was originally credited.

It will also be seen that originally the Trustees' Investments a/c was charged with the purchase of the bonds ($9800.00), and, they now having been sold, this account is credited with a like

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amount, whether the sale realizes a profit or a loss. The Trustees' Cash a/c on the one hand, and the Trust Cash Accounts of the life tenants on the other hand, take care of all profits or losses involved in sales and purchases of corpus.

Now suppose that the trustees for C. Smith think that some of the stocks or bonds in the lot of $200,000.00 should be sold. Having obtained permission from the court they now sell 100 shares of Sand Bank appraised by the court at 90, and 50 shares of B. T. common appraised at 40, in the original inventory—

Cash-Book Entry:

Cash (Trustees' column).....	$9,500 00	
To C. Smith, Trust Cash a/c.....		$9,500 00
For sale of—		
100 shares Sand Bank at 80 (appraised 90).		
50 shares B. T. common at 30 (appraised 40).		

This entry shows that the sale was made and the proceeds received, showing also that, according to the appraised values, a loss of $1500.00 was sustained. Then make

Journal Entry:

C. Smith, Trust Security a/c.....	$11,000 00	
To Trustees' Investments a/c.....		$11,000 00
For sale of—		
100 shares Sand Bank, appraised at 90.		
50 shares B. T. common, appraised at 40.		
See Cash-Book.		

When this trust was created for Smith he was credited with the sum of $200,000.00, but in this amount was the sum of $11,000.00, being the above stocks at the court's appraisement. Now when these stocks are sold it is, of course, necessary to charge C. Smith's Trust Security a/c, not with the proceeds of the sale, but with the amount which was originally credited to this account for the particular stocks sold. As said before, Smith's Trust Cash a/c will

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take care of the profit or the loss, but you must account for the investments (in the accounts representing the same) at the appraised values until a new valuation, if any, is put upon them.

In the last entry the Trustees' Investments a/c is relieved (credited) by the sale of these stocks. This account having been originally charged with the stocks at the appraisement, must now be credited with the sale of these stocks at the appraisement, and not with the proceeds.

471. **Investment Causing Over-draft.** Now assume that Smith's Trust Cash a/c had been invested except for, say $1000.00, and that the trustees now also wish to invest this. With the permission of the court they buy 10 shares of Sand Bank at 100 or $1000.00, but find when they go to pay for them that, with the broker's commission, the purchase amounts to $1001.25. They make the purchase, however, charging Smith's Trust Cash a/c, and crediting cash in the trustees' column of the cash-book. Therefore, Smith having only $1000.00 to the credit of his Trust Cash a/c it will be seen that the trustees have overdrawn. Besides the cash-book entry given above, they must, of course, make a journal entry charging the Trustees' Investments a/c with the $1000.00 (omit the brokerage) and credit C. Smith Trust Security a/c with a like sum. There is no way to make up this overdraft on Smith's Trust Cash a/c until some of Smith's Corpus securities have been sold, or some corpus cash received, the proceeds from sales going into the Trust Cash a/c. Trustees should, if possible, avoid overdrawing.

472. **Entries When Trust Fund Reverts to Estate.** Now suppose that B. Black dies, and his corpus trust fund amounts in all to

$320,000 00 in securities.
5,000 00 in cash.

being an increase over the original trust, due to sales and reinvestments, of $15,000.00—

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Journal Entry:

Estate Investments a/c.....	$320,000 00	
To Trustees' Investments a/c.....		$320,000 00

This entry shows that the securities have been transferred by the trustees back to the executors, or the estate (they acting in both capacities here), thus becoming a part of the original estate again, according to the terms of the will of A. Jones. And then—

Journal Entry:

B. Black Trust Security a/c.....	$320,000 00	
To Estate of A. Jones a/c.....		$320,000 00

This entry shows that the credit to Black's account with the trustees is closed, and the same transferred to the credit of the original estate, the same being now held in the name of the estate and its executors.

The above two entries dispose of the securities which revert to the estate by reason of Black's death, and we have now only the Trust Cash a/c to consider. We have seen above that the cash amounts to $5000.00. For this make

Cash-Book Entry:

	Executors.	Trustees.		Executors.	Trustees.
To Balance.....		$6,000 00	By B. Black Trust Cash a/c — transferred to Estate of A. Jones.....		$5,000 00
" Estate of A. Jones a/c— for reversion of trust by reason of Black's death.	$5,000 00		By Balance.....	$5,000 00	1,000 00
	$5,000 00	$6,000 00		$5,000 00	$6,000 00
To Balance.....	$5,000 00	$1,000 00			

It will now be seen that all trust accounts for Black, and the trustees' accounts to the extent of Black's share, are now closed, and the estate of A. Jones is credited with the return of the securi-

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ties, as well as the cash. In the cash-book entry above, the $5000.00 is given the executors and taken away from the Trustees' Cash a/c by use of the totals of the cash-book columns. Also, the single postings will credit the estate of A. Jones through the debit cash entry, and charge the Trust Cash a/c of Black through the credit cash entry, thus closing up all trust accounts of Black.

473. **Entries When Trust Fund Has Been Willed.** Now suppose that Smith dies, and that his corpus fund shows—

$220,000 00 in securities.
10,000 00 in cash.

the whole of which was willed by Smith (as per power given him by Jones) to his son D. Smith.

First Journal Entry:

C. Smith, Trust Security a/c	$220,000 00	
To Estate of C. Smith		$220,000 00

This entry closes up Smith's Trust Security a/c, and shows Smith's estate credited with the funds—

Journal Entry:

C. Smith, Trust Cash a/c	$10,000 00	
To Estate of C. Smith		$10,000 00

This latter entry shows that the corpus cash has been transferred to the new account (Estate of C. Smith) preparatory to paying the same over to Smith's personal representatives.

Now when paying over this sum of $230,000.00 ($220,000.00 in securities, $10,000.00 in cash), make, for the securities—

Journal Entry:

Estate of C. Smith	$220,000 00	
To Trustees' Investments a/c		$220,000 00

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This entry shows that these securities have been handed over to Smith's executors, for when the trustees' part with these securities they must, of course, charge Smith's Estate a/c, and credit themselves through the Trustees' Investments a/c.

And for the cash portion of $10,000.00, mentioned above, which is also assumed to be paid by the trustees to Smith's executors, make,

CASH-BOOK ENTRY.

	Executors.	Trustees.		Executors.	Trustees.
To Balance....	$5,000 00	$10,000 00	By Estate of C. Smith a/c —paid to C. Smith's executors as per will of Jones.		$10,000 00
			By Balance....	$5,000 00	
	$5,000 00	$10,000 00		$5,000 00	$10,000 00
To Balance....	$5,000 00				

The above cash entry shows payment made to the executors of C. Smith, this payment being charged, of course, to the Estate of C. Smith a/c. The credit trustees' column of the cash-book credits the Trustees' Cash a/c with a like sum, thereby relieving the trustees of this charge. Now all trust accounts for C. Smith have been closed by payment of these funds over to Smith's executors. Of course, should there be any accumulated income on Smith's Trust Income a/c which should be paid over with the corpus to Smith's executors, treat such cash income in the same manner as the corpus cash. The object of these entries is to consolidate all sums due these executors of Smith, for in this way one account will show just what was paid over, whereas otherwise several accounts would have to be referred to.

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474. **Entries in Case of Annuities.** Now as regards the third proposition in this article which is the $2000.00 annuity produced by securities set aside by the executors in their names as executors for the benefit of E. Brown, Annuitant, open an account entitled

E. Brown, Annuitant a/c

and when you pay Brown this annuity charge this Annuitant a/c and credit cash in the cash-book, using the executors' column.

Also open an a/c entitled

E. Brown Annuity Income a/c

and credit this account with the interest and dividends received from the securities which guarantee this annuity, using the executors' column of the cash-book. At the end of the fiscal year (when reporting to the court) close the balance of E. Brown, Annuitant a/c into the account of E. Brown, Annuity Income a/c, and transfer the surplus, if any, to Interests and Dividends a/c unless the will directs such surplus to be disposed of in a different manner, or accumulated. In any event, treat as the will directs.

The principal which guarantees or produces this annuity will be found in the balance of Estate a/c of A. Jones on the credit side, and also in the debit balance of Annuity Investments a/c, showing that much of the estate corpus or residue awaits distribution.

475. **Entries When Annuity Reverts to Estate.** Now suppose that Brown dies and the principal, together with the surplus income, reverts to the estate. As regards the principal, make

Journal Entry:

Estate Investments a/c.
    To Annuity Investments a/c.

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This entry charges the principal back to the fund from which it was temporarily withdrawn, and at the same time closes the Annuity Investments a/c which is (on account of death of annuitant) no longer in existence. Then close the debit balance of E. Brown Annuitant a/c into E. Brown Annuity Income a/c, transfer the surplus balance, if any, of E. Brown Annuity Income a/c into Estate Income a/c, through Interest and Dividends a/c and then distribute the balance of the Estate Corpus a/c and the Estate Income a/c as per will's directions.

476. **Entries Where Life Tenant Gets Income in Amounts Approved by Trustee and Surplus Collects.** There is another proposition which should be touched on in this article, though it is not of common occurrence. Refer back to the trust fund which was left to Black and you will find that Black was to receive the income thereof outright for life. Now assume that the testator has directed that he (Black) should receive "as much of the income as may be considered proper by my trustees, the balance, if any, to be accumulated and handed to Black when he reaches the age of 35." It is the duty of the trustees first to provide, in this case, for Black's support and comfort, etc., and then to accumulate any surplus. It is also their duty in accumulating such surplus to see that it is invested, and not allowed to lie idle. Therefore, assuming the surplus at this time to be $10,000.00, and standing to Black's credit on the B. Black Trust Income a/c, make

Cash-Book Entry:

B. Black Trust Income a/c.....	$10,000 00	
To Cash (Trustees' column).....		$10,000 00
For 100 shares A. R. Co. preferred bought at 100.		

These stocks belong to Black's income (the surplus which he is to get at 35).

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Journal Entry:

Trustees' Income Investments a/c.....$10,000 00
To B. Black, Trust Income Security a/c..... $10,000 00

The cash entry shows Black's income to have paid for the stocks. The journal entry shows B. Black's Income Security a/c credited with the income investments. In the latter entry it is also shown that the trustees have charged themselves in the Trustees' Income Investments a/c with these holdings. Thus it can be seen that this principle of separating income from corpus is one of the cardinal principles throughout the accounts.

Now when you part with these income investments just reverse the entries, using as a basis for such entries the original purchase price for the Trustees' Income Investments a/c, and the B. Black Trust Income Security a/c; and using the proceeds of the sale (if sale is made) as the basis for the cash-book entry.

477. **Savings Bank A/C.** On glancing back, we find that B. Black also had a Trust Cash a/c, this cash to be invested so as to produce income. Now suppose that after making investments there were $500 left over to the credit of this account, and that the trustees not caring to invest so small an amount in stocks but at the same time not wishing to let it lie idle, deposit this amount in a savings bank. Do not treat such a deposit as an investment, for when reporting to the court this must be treated as "cash on hand." Having deposited the money in the savings bank, make entry—

Cash Entry:

State Savings Bank a/c.....$500 00
To Trustees' Cash a/c..... $500 00

For deposit, book No. 43,000 of the State Savings Bank, in name of the trustees for B. Black.

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478. **Draw Savings Bank Interest When Payable.** When the savings bank enters the interest in the book, either annually or semi-annually, draw it out, for this interest is income derived from the corpus and should not be mixed with the corpus. This withdrawal of interest will cause

Cash-Book Entry:

Cash a/c (Trustees').
To B. Black Trust Income a/c.
Being interest on deposit book No. 43,000, withdrawn.

In the above entry, of course, use the trustees' column of the cash-book. There is another entry which will, in cases, avoid the necessity of going to the trouble of actually withdrawing the interest, but as said before, the best plan is to withdraw it when due or payable.

479. **General Summary.** In summarizing the aforegoing matters we find that the corpus of trust funds is divided into—

..... Trust Security a/c (prefix name),
..... Trust Cash a/c (prefix name),

the respective debit offsets to which are

Trustees' Investments a/c.
Trustees' Cash a/c.

As to the income derived from the corpus we have

..... Trust Income a/c (prefix name),

the debit offset to which is

Trustees' Cash a/c.

There may also be, under certain circumstances before described,

..... Trust Income Security a/c (prefix name).

the debit offset to which is

Trustees' Income Investments a/c.

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We also find that the life tenant of the trust is entitled to the income and the income investments wholly or partially, but not to the corpus of the fund producing such income.

We further see that a trustee when receiving a trust from an executor takes that portion which is in securities or investments at an appraised valuation made by the court, through its duly appointed appraisers, according to the inventory originally filed with it. The court requires the trustee to account for these funds; first, for the funds themselves, and often incidentally for their market value at the time of stating the account; but the trustee need not, in his books, change the values at which he received the funds from the executor. He may do so if he wishes, but there is no advantage in so doing. That is why the Trust Cash a/c receives the selling value of such stocks, etc., when sold, while the Trustees' Investments a/c and the Trust Security a/c of the life tenant are credited and debited respectively, with the appraised value, and not with the proceeds.

If stocks, etc., are purchased from time to time with the funds standing to the credit of Trust Cash a/c, use the purchase price as a future basis for entries made in the Trustees' Investments a/c, and ..... Trust Security a/c (of the life tenant) for these particular stocks and this particular purchase. The court accepts the purchase price at the time of the purchase, for it must be sanctioned before the investment can be made.

As regards the cash entries, if you are acting as executor and trustee, be sure and use trustees' columns where trust money is concerned, and executors' columns where estate money is made use of. Even though you may not have occasion to deal with both offices, the use of the cash-book entries herein described may be applied. And in the event of your having to deal with both kinds of representatives for only a short time, a division of the cash-book need only be made on the creation of the trust.

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When making entries with reference to trust funds make them neatly and do not try to crowd, and be sure to make a sufficient and proper explanation. Hours may be saved by doing this. Also avoid short cuts to save entries.

Stating Trustee Reports and Schedules.

480. **General Remarks.** As a general treatment on trustee reports and schedules has already been given in Chapter XI, section 459, space will now be devoted to explaining how trustee reports and schedules should be made up.

481. **Reports.** The report proper as distinguished from the schedules which are attached to it and made a part thereof is simply a clear historical statement of what has transpired in the administration of the estate since the beginning of the trust, or since the last report has been filed. It is often nothing more or less than a summary of what is set out in detail in the schedules.

Should the estate be a very small one it is not necessary for the trustee to use the schedules, as the auditor can readily state his account from the information set out in the report proper.

In some courts they require the trustees to file two separate sets of reports, one for the Corpus of the Estate and another which is called an Income or a Receipts and Disbursements Report.

482. **Corpus Report.** The corpus report consists of, besides the report proper, schedules of all the securities comprising each of the estate trusts arranged according to whether they are bonds or stocks, etc., and others showing cash on hand and what securities have been sold and which have been purchased. This report is made so that some officer of the court, whose duty it is, can go with the trustee to the place where the securities are kept and see whether the trustee really has in his possession the securities he ought to have. For each separate trust (should there be more than one) held by the trustee of the estate it is usual to use schedules Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9 as shown below.

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483. **Income Report.** The income report consists of, besides the report proper, schedules showing the total income received and reconciliation of corpus and income cash as well as those giving detail lists of the receipts and disbursements made by the trustee. Should the trustee have invested accumulated income in securities then he must also give a schedule enumerating them.

For each separate trust held by the trustee it is usual to use schedules Nos. 10, 11, 12 and 13 as shown below.

484. **Schedules.** The schedules or accounts as they are called in some jurisdictions should give in detail the assets of the trust estate and also show any change that may have taken place in the status of the investments, as well as the itemized information with reference to receipts and disbursements. Before taking up the different schedules, let us consider the question of market value as it is pertinent to nearly all of them.

485. **Market Value.** It must be remembered from the consideration of trust funds earlier in this chapter, that when the trustee took charge, the securities or investments were turned over to him by the executor at the original inventory value.

Now when the trustee makes his report, the court wants to know, in addition to whether he has kept in his possession the securities, etc., turned over to him, and if not, what authority he had for disposing of them, the market value (the "bid" price) as of the day the report is made (some States require the market value and some do not). By "as of the day the report is made" is meant the day which the trustee and his accountant have selected as the last one of which the entries will be taken and included in their schedules. Of course, as it takes the accountant some time to make up the schedules or accounts the actual filing may not take place until a week or two later.

The market value of the date of making the report may differ greatly from the one which appears on your books for the stocks

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and bonds, etc. And as it is a great deal of work and absolutely useless to make the security accounts on your books conform, as to dollars and cents, with the schedule which the accountant prepares for the court, he will do well to keep the original value of the trust intact as regards investments (not cash on deposit, of course) except for such changes as sales and purchases which may be incident to its management. Use the purchase price on any additions to the trust funds as a basis for future entries for that stock or security. Of course, where a stock or bond, etc., becomes, beyond any doubt, worthless it can be written off; but it must be accounted for, even if as of "no value." The method advised of retaining the original figures in your books, subject to changes by sales and purchases, is the desirable way to keep tab on a trust, for the actual market value can be seen from time to time by referring to the report as made to the court. And, moreover, it allows of a comparison between the value of the trust when taken over, and the value at intervals since that time.

486. **Kinds of Schedules.** (a) *Cash.* (See schedules Nos. 3, 6 and 9.) These schedules show the corpus cash on hand at the time when the report is rendered to the court.

(b) *Sales.* (See schedule No. 6.) In this schedule is set forth all the information with reference to the sales made of trust securities since the last report made to the court.

(c) *Purchases.* (See schedule No. 6.) In this schedule is set forth all the information with reference to the purchases of securities made by the trustees since filing their last report to the court.

(d) *Summary.* (See schedule No. 1.) This little summary and statement shows the Auditor at a glance how the cash balance of the corpus of the trusts, being reported on, stands. This saves him much time, and expense to the estate, in checking up.

(e) *Bonds.* (See schedules Nos. 3, 4 and 7.) In these schedules are set forth and described in detail all of the bonds belonging to the trusts.

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(f) *Shares.* (See schedules Nos. 5 and 8.) In these schedules are set forth and described in detail all of the shares of stock belonging to the trust estates.

(g) *Undivided Estate.* (See schedules Nos. 2 and 3.) It sometimes happens when the trustee takes over property from himself as executor, and separate trusts are created under the terms of the will that there may be some property which cannot immediately be divided among the different trusts. Thus, there may be a trust estate of undivided property as shown in schedules Nos. 2 and 3, comprised of real estate, mortgage, cash, and securities held to guarantee an annuity.

(h) *General Remarks.* It may happen that there are two different departments of the Equity Court in which your reports are filed, one department handling the corpus, and the other the income. In this event, it may be that the Auditor in charge of the department handling the income reports may require you to attach an entire copy of the corpus report to your income report, or he may require that you attach copies of certain schedules filed with the corpus report.

Income Report.

(i) *Summary.* (See schedule No. 10.) This summary enables the Court Auditor at a glance to see all of the data pertaining to corpus and income cash belonging to the trusts necessary for him to check up the accounts.

(j) *Receipts.* (See schedules Nos. 11, 12 and 13.) These schedules include the itemized receipts as they were received by the trustee.

(k) *Disbursements.* (See schedules Nos. 11, 12 and 13.) These schedules include the itemized disbursements as they were made by the trustee.

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Schedule No. 1.

ESTATE OF A. JONES.

Baltimore, Md., May 1, 1909.

THIRD ANNUAL REPORT OF CORPUS.

Report of Income received from the Corpus of Trusts* 1, 2 *and* 3, *Disbursements of the same, and the Balances remaining, as per detailed statement of each trust hereto attached.

INCOME.

Trust No.	Belonging to	Auditor's balance May 1, 1908.	Income received.	Income disbursed.	Bal. to credit of Tr. 5/1/'09.	On deposit in Second Natl. Bank.	On deposit in State Natl. Bank.
1.	Undivided Estate.....	$219 20	$2,140 00	$2,325 00	$34 20	$20 00	$14 20
2.	J. Jones.....	120 49	2,680 00	2,380 12	420 37	140 50	279 87
3.	Mary Jones.....	215 20	2,680 00	2,380 12	515 08	336 66	178 42
		$554 89	$7,500 00	$7,085 24	$969 65	$497 16	$472 49

RECONCILIATION OF CASH.

CORPUS AND INCOME.

CASH ASSETS.

Deposited in	Covered by	Amount.
Second National Bank.....	Book dated 1/20/'06.....	$569 31
State National Bank.....	Book dated 2/18/'06.....	800 34
State Savings Bank.....	Book No. 43000.....	175 00
United Assurance Society.....	Policy No. 4035.....	500 00
Central Trust Co.....	Book dated 3/20/'07.....	25 00
		$2,069 65

CASH LIABILITIES.

Income due Trusts Nos. 1, 2 and 3 as above.....	$969 65
Corpus due Trust No. 1.....	500 00
Corpus due Trust No. 2.....	400 00
Corpus due Trust No. 3.....	200 00
	$2,069 65

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Schedule No. 2.

ESTATE OF A. JONES.

Baltimore, Md., May 1, 1909.

THIRD ANNUAL REPORT OF CORPUS.

TRUST No. 1.

FOR THE BENEFIT OF THE HEIRS OF A. JONES.

REAL ESTATE.

Lot and improvements on the southwest corner of H and L Sts., said lot fronting on H St. 50 feet, thence back to an alley 75 feet, thence to L St. 50 feet, thence to H St. 75 feet, to the point of beginning.
Improvements consisting of three-story brick dwelling, and brick stable in rear.
Held in fee simple. Assessed at.....$10,000 00

Schedule No. 3.

ESTATE OF A. JONES.

Baltimore, Md., May 1, 1909.

FOR THE BENEFIT OF THE HEIRS OF A. JONES.

THIRD ANNUAL REPORT OF CORPUS.

TRUST No. 1.

BEING UNDIVIDED ESTATE.

MORTGAGE.

Name of Mortgagor.	Amount.	Location of Property, etc.
John Smith, Sarah Smith, his wife.....	$5,000 00	Being a five per cent. mortgage on 200 acres of land, more or less, with improvements thereon, situate and lying near.....in the First Election District of.....County, State of..... Recorded in Liber.....No.....Folio No.....Dec. 1, 1907.
	$5,000 00	

CASH.

Number of Book.	Deposited in	Amount.
Perpetual Fire Insurance Policy No. 4035 for $5,000, dated Dec. 1, 1890.	The sum of $500 being on deposit with the United Assurance Society to cover insurance on dwelling of this estate for $5,000. The $500 can be withdrawn on 10 days' demand.....	$500 00
		$500 00

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BONDS.

HELD IN THE NAMES OF THE EXECUTORS TO GUARANTEE ANNUITY FOR HELEN JONES, WIDOW.

Name of Obligor.	Maturity.	Description.	No. of Bond.	Amt. of Bond.	Total.	At.	Market value.
National Railway Co...	1925	6%	4000 4001 4002	$10,000 10,000 10,000	$30,000	105	$31,500 00

Where the Court does not require the "market value," omit these last two columns.

Schedule No. 4.

ESTATE OF A. JONES.

Baltimore, Md., May 1, 1909.

THIRD ANNUAL REPORT OF CORPUS.

TRUST No. 2.

FOR THE BENEFIT OF J. JONES.

BONDS.

Name of Obligor.	Maturity.	%	No. of Bonds.	Par.	Total.	At.	Market value.
Anacostia & Potomac River Railway Co.....	1949	5%	8000	$1,000			
Anacostia & Potomac River Railway Co.....	1949	5%	8001	1,000	$2,000	98	$1,960 00
International Construction Co.....	1910	Incomes.	5	500			
International Construction Co.....	1910	Incomes.	6	500	1,000	No value.	
United Railways & Power Co.....	1948	4%	20342	1,000	1,000	90	900 00
American Tobacco Co...	1944	Reg. 6%	1145	15,000	15,000	100	15,000 00
American Machinery Co.	1950	Reg. 5%	509	6,000	6,000	100	6,000 00
							$23,860 00

Where the Court does not require the "market value" to be given, these last two columns may be omitted.

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Schedule No. 5.

ESTATE OF A. JONES.

Baltimore, Md., May 1, 1909.

THIRD ANNUAL REPORT OF CORPUS.

TRUST No. 2.

FOR THE BENEFIT OF J. JONES.

SHARES.

No. of shares.	Class.	Name of company.	Nos. of certificates.	Date of certificates.	Par.	At.	Market value.
100	Prfd.	Amer. Distilling Co.....	349	Dec. 31, 1906	$10.000	50	$5,000 00
10	Prfd.	Ches. & Pac. Ry. Co....	2005	Dec. 31, 1906	1,000	40	400 00
5000		Howling Dog Min'g Co.	23	Apr. 1, 1907	5,000	2	10,000 00
							$15,400 00

Where the Court does not require the "market value" to be given, omit these last two columns.

Schedule No. 6.

ESTATE OF A. JONES.

Baltimore, Md., May 1, 1909.

THIRD ANNUAL REPORT OF CORPUS.

TRUST No. 2.

FOR THE BENEFIT OF J. JONES.

CASH.

Number of Book.	Deposited in	$400 00 Amount.
Book dated 2/18/'06.	State National Bank.....	$327 85
Book dated 1/20/'06.	Second National Bank.....	72 15
		$400 00

SALES.

No. of Shares or Bonds.	Class.	Name of Company.	Date of Order authorizing Sale.	Gross amount.	Exp. of Sale.	Am't Rec'd.	Received in Exchange.
	Rights	Crescent Match Co...	Nov. 20, 1908	$40 00	$1 00	$39 00	
5	Prfd.	Light & Heat Co.....	Dec. 28, 1908	501 50	1 50	500 00	
50	Prfd.	Amer. Brew'g Co.....	Dec. 29, 1908	Rec'd 100 shares New Stock of the American Distilling Co. For particulars see 2d Annual Report of Corpus Trust No. 3, May 1, 1908.			
				$541 50	$2 50	$539 00	

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PURCHASES.

No. of Shares or Bonds.	Class	Name of Company.	Date of Order authorising Purchase.	Gross Am't Paid.	Exp. of Purch.	Am't Paid.	Delivered in Exchange.
	Rights	Crescent Match Co...	Nov. 1, 1908	Received as stock dividend or bonus.			
100	Prfd.	Amer. Distilling Co..	Dec. 31, 1908	In exchange for 50 shares Old Stock Amer. Brew'g. Co.			
10		Ches. & Pac. Ry.....	Dec. 31, 1908	$443 00	$3 00	$440 00	
				$443 00	$3 00	$440 00	

Balance May 1, 1908, as per Auditor's 2d Report	$304 00	
Subsequent receipts as above	539 00	
		$843 00
Less disbursements, as above		443 00
Balance 5/1/'09 as per this account		$400 00

Schedule No. 7.

ESTATE OF A. JONES.

Baltimore, Md., May 1, 1909.

THIRD ANNUAL REPORT OF CORPUS.

TRUST No. 3.

FOR THE BENEFIT OF MARY JONES.

BONDS.

Name of Obligor.	Maturity.	Description.	No. of Bond.	Am't of Bond.	Total.	At.	Market value.
Anacostia & Pot. River Ry....	1949	5%	8002	$1,000			
	1949	5%	8003	1,000	$2,000	98	$1,960 00
United Rys. & Power Co.....	1948	4%	20343	1,000			
	1948	4%	20344	1,000	2,000	90	1,800 00
American Tobacco Co. (Reg.).	1944	6%	1144	20,000	20,000	100	20,000 00
							$23,760 00

Where the Court does not require the "market value" to be given, omit these last two columns.

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Schedule No. 8.

ESTATE OF A. JONES.

Baltimore, Md., May 1, 1909.

THIRD ANNUAL REPORT OF CORPUS.

TRUST No. 8.

FOR THE BENEFIT OF MARY JONES.

SHARES.

No. of Shares.	Class.	Name of Company.	Certificate Numbers.	Date of Certificates.	Par Value.	At.	Market Value.
100	Prfd.	Amer. Distilling Co....	350	Dec. 31, 1906	$10,000	50	$5,000 00
10		Dela., Lack. & W. Ry..	02001	Dec. 31, 1906	5,000	330	3,300 00
4000		Howling Dog Min'g. Co.	24	Apr. 1, 1907	4,000	2	8,000 00
							$16,300 00

Where the Court does not require the "market value" to be given, omit these last two columns.

Schedule No. 9.

ESTATE OF A. JONES.

Baltimore, Md., May 1, 1909.

THIRD ANNUAL REPORT OF CORPUS.

TRUST No. 8.

FOR THE BENEFIT OF MARY JONES.

CASH.

$200 00

Number of Book.	Deposited in	Amount.
43000	State Savings Bank	$175 00
40	Central Trust Co.	25 00
		$200 00

SALES.

NO SALES DURING THE YEAR.

PURCHASES.

NO PURCHASES DURING THE YEAR.

Balance May 1, 1908, as per Auditor's Report..... $200 00

Balance May 1, 1909, as per this Account..... $200 00

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Schedule No. 10.

ESTATE OF A. JONES.

Baltimore, Md., May 1, 1909.

THIRD ANNUAL REPORT OF INCOME.

RECONCILIATION OF CASH.

CORPUS CASH.

Trust No.	Belonging to	Deposited in: Second Nat. B'k.	State Nat. B'k.	Central Trust Co.	United Assur. Society.	State Savings Bank.	Total.
1	Undivided Estate.				$500 00		$500 00
2	J. Jones.....	$72 15	$327 85				400 00
3	Mary Jones.....			$25 00		$175 00	200 00
		$72 15	$327 85	$25 00	$500 00	$175 00	$1,100 00

INCOME CASH.

Trust No.	Belonging to	Auditor's Bal. 5/1/'08	Income Rec'd.	Income Disbursed.	To Cr. of Trusts 5/1/'09	Deposited in: Second Nat'l. Bank.	State Nat'l. Bank.
1	Undivided Estate.	$219 20	$2,140 00	$2,325 00	$34 20	$20 00	$14 20
2	J. Jones.....	120 49	2,680 00	2,390 12	420 37	140 50	279 87
3	Mary Jones.....	215 20	2,680 00	2,380 12	515 08	336 66	178 42
		$554 89	$7,500 00	$7,085 24	$969 65	$497 16	$472 49

CORPUS AND INCOME.

CASH ASSETS.

Deposited in	Amount.
Second National Bank	$569 31
State Savings Bank	175 00
State National Bank	800 34
Central Trust Co.	25 00
United Assurance Society	500 00
	$2,069 65

CASH LIABILITIES.

Income Due Trust 1	$34 20
Income Due Trust 2	420 37
Income Due Trust 3	515 08
Corpus Due Trusts 1, 2 and 3	1,100 00
	$2,069 65

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Schedule No. 11.

ESTATE OF A. JONES.

Baltimore, Md., May 1, 1909.

THIRD ANNUAL REPORT OF INCOME.

Since the second report in this cause, filed as of May 1, 1908, the trustees have received income from the hereinafter mentioned trust to the amount of $2,140.00 and have paid same to (and/or for) the party entitled thereto, as will appear from the receipts and vouchers exhibited herewith, except such balance as may be on hand this date as shown.

INCOME DERIVED FROM THE CORPUS OF

TRUST No. 1

FOR THE BENEFIT OF THE HEIRS OF A. JONES.

CASH RECEIPTS.

Date.	Nature.	Produced by	Amount.
May 1, 1908.	Balance	As per Auditor's second report	$219 20
" 1,	Interest	John Smith on mortgage	125 00
July 1,	Interest	National Railway Co.	945 00
Nov. 1,	Interest	John Smith on mortgage	125 00
Jan. 1, 1909.	Interest	National Railway Co.	945 00
			$2,359 20

DISBURSEMENTS.

TRUST No. 1.

Date.	Paid to	On account of	Amount.
May 1, 1908.	Helen Smith, widow	1/12 of annuity	$100 00
June 1,	"	"	100 00
July 1,	"	"	100 00
Aug. 1,	"	"	100 00
Sept. 1,	"	"	100 00
Oct. 1,	"	"	100 00
Nov. 1,	"	"	100 00
Dec. 1,	"	"	100 00
Jan. 1, 1909.	"	"	100 00
Feb. 1,	"	"	100 00
Mch. 1,	"	"	100 00
Apr. 1,	"	"	100 00
" 30,	State and city taxes		205 00
" 30,	Stationery, etc.		50 00
" 30,	Office rent one year		120 00
" 30,	Salaries		750 00
" 30,	Balance	As per this account	34 20
			$2,359 20

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Schedule No. 12.

ESTATE OF A. JONES.

Baltimore, Md., May 1, 1909.

THIRD ANNUAL REPORT OF INCOME.

Since the second report in this cause, filed as of May 1, 1908, the trustees have received income from the hereinafter mentioned trust to the amount of $2680.00 and have paid same to (and/or for) the party entitled thereto as will appear from the receipts and vouchers exhibited herewith, except such balance as may be on hand this date as shown.

INCOME DERIVED FROM THE CORPUS OF

TRUST No. 2

FOR THE BENEFIT OF J. JONES.

CASH RECEIPTS.

Date.	Nature.	Produced by	Amount.
May 1, 1908.	BALANCE	As per Auditor's 2d Report	$120 49
1,	Interest	United Rys. & Power Co.	20 00
15,	Dividend	American Distilling Co.	200 00
June 1,	"	Howling Dog Mining Co.	125 00
July 1,	Interest	Anacostia & Potomac River Ry.	50 00
1,	"	American Machinery Co.	150 00
Aug. 15,	Dividend	American Distilling Co.	200 00
Sept. 1,	"	Howling Dog Mining Co.	125 00
Oct. 1,	Interest	American Tobacco Co.	450 00
Nov. 1,	"	United Rys. & Power Co.	20 00
15,	Dividend	American Distilling Co.	200 00
Dec. 1,	"	Howling Dog Mining Co.	125 00
Jan. 1, 1909.	Interest	Anacostia & Potomac River Ry.	50 00
1,	"	American Machinery Co.	150 00
15,	Dividend	American Distilling Co.	200 00
15,	" (No. 1)	Chesapeake & Pac. Ry.	40 00
Feb. 1,	"	Howling Dog Mining Co.	125 00
Apr. 1,	Interest	American Tobacco Co.	450 00
			$2,800 49

DISBURSEMENTS.

TRUST No. 2.

Date.	Paid to	On Account of	Amount.
June 1, 1908.	Jones & Bro.	Legal Services	$10 00
July 31,	Collector of Taxes.	State and City Taxes, 1908.	200 00
31,	Jones & Bro.	Legal Services	25 00
Aug. 5,	Kelly & Co.	Stationery, etc.	15 00
Dec. 1,	Life Tenant.	Income from this trust.	1,065 12
Apr. 30, 1909.	Salaries.		345 00
30,	Office Rent.		120 00
30,	BALANCE.	TO CREDIT OF LIFE TENANT.	420 37
			$2,800 49

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Schedule No. 13.

ESTATE OF A. JONES.

Baltimore, Md., May 1, 1909.

THIRD ANNUAL REPORT OF INCOME.

Since the second report in this cause, filed as of May 1, 1908, the trustees have received income from the hereinafter mentioned trust to the amount of $2680.00 and have paid same to (and/or for) the party entitled thereto, as will appear from the receipts and vouchers exhibited herewith, except such balance as may be on hand this date as shown.

INCOME DERIVED FROM THE CORPUS OF

TRUST No. 3

FOR THE BENEFIT OF MARY JONES.

CASH RECEIPTS.

Date.	Nature.	Produced by	Amount.
May 1, 1908.	BALANCE	As per Auditor's 2d Report	$215 20
1,	Interest	United Rys. & Power Company	40 00
15,	Dividend	American Distilling Co	200 00
June 1,	"	Howling Dog Mining Co	100 00
July 1,	Interest	Anacostia & Potomac River Ry	50 00
20,	Dividend	Dela., Lacka. & Western Ry	25 00
Aug. 15,	"	American Distilling Co	200 00
Sept. 1,	"	Howling Dog Mining Co	100 00
Oct. 1,	Interest	American Tobacco Co	600 00
20,	Dividend	D., L. & W. Ry	25 00
Nov. 1,	Interest	United Rys. & Power Company	40 00
15,	Dividend	American Distilling Co	200 00
Dec. 1,	"	Howling Dog Mining Co	100 00
Jan. 1. 1909.	Interest	Anacostia & Potomac River Ry	50 00
15,	Dividend	American Distilling Co	200 00
20,	"	D., L. & W. Ry	25 00
Feb. 1,	"	Howling Dog Mining Co	125 00
Apr. 1,	Interest	American Tobacco Co	600 00
			$2,895 20

DISBURSEMENTS.

TRUST No. 3.

Date.	Paid to	On Account of	Amount.
July 31, 1908.	Tax Collector	State and City Taxes	$200 00
Aug. 5,	Kelly & Co	Stationery, etc	15 00
Dec. 1,	Life Tenant	Income from this trust	1,700 12
Apr. 30, 1909.	Salaries		345 00
30,	Office Rent		120 00
30,	BALANCE	TO CREDIT OF LIFE TENANT	515 08
			$2,895 20

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CHAPTER XIII.

TRUSTEE ACCOUNTS IN DETAIL.

TRUSTEES' CASH A/C.

Representing Assets.

Applicable to Executors Becoming Trustees.

487. **General Remarks.** This article covers the treatment of the trustees' cash, the executors acting both as executors and trustees. (See article on "Separation of Executors' and Trustees' Cash," sec. 230.)

488. **What This Account Should Contain.** This account contains only cash belonging to funds held in trust by the trustees.

489. **Opening Entry.** Let us suppose that the executors have obtained permission to distribute to themselves as trustees for the use of Brown and Jones the lifetime tenants, $3000 and $4000 respectively.

CASH-BOOK ENTRY.

	Executors.	Trustees.		Executors.	Trustees.
To Balance.....	$7,000 00		By Estate Corpus a/c:		
To Brown Trust Cash a/c, cash portion of trust fund.....		$3,000 00	Brown..$3,000		
			Jones... 4,000		
			as per contra entries.....	$7,000 00	
To Jones Trust Cash a/c, cash portion of trust fund.....		$4,000 00	By Balance.....		$7,000 00
	$7,000 00	$7,000 00		$7,000 00	$7,000 00
To Balance.....		$7,000 00			

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The above entries charge the Estate Corpus a/c and credit Brown and Jones respectively in their Trust Cash Accounts by means of the single postings. Through the total column postings the Executors' Cash a/c is credited, and Trustees' Cash a/c is charged with the transfer of these funds from the executors to themselves as trustees.

490. **Should Be Charged With.** The debits to this account consist of the total cash received as per trustees' column on the debit side of the cash-book, balance of the previous month being, of course, deducted.

491. **Should Be Credited With.** The credits to this account are the total disbursements as per trustees' column on the credit side of the cash-book.

492. **This Account Closes.** This account will close only when all the cash has been disbursed. Therefore, when rendering your administration account to the court rule this account off, but do not fail to bring the balance down.

493. **Applicable to Administrators.** This account does not concern administrators.

Trustees' Cash a/c.

Dr.	*Cr.*
To	By
All receipts of trustees' cash, both corpus and income.	All disbursements of trustees' cash, both corpus and income.

The cash-book should be closed on the last day of each month, and one posting made for the total receipts and one for the total disbursements.

TRUSTEES' INVESTMENTS A/C.

Representing Investment Assets.

Applicable to Executors Becoming Trustees.

494. **General Remarks.** This account is the debit offset to the various individual Trust Security Accounts. As advised in the article on Estate Investments a/c, section 255, a small book may

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be used to itemize this account, the two (*i. e.* the small book and the controlling account in the ledger) should balance with each other at all times. The following sections do not provide for amortization. Where this is practiced the book values of the securities affected undergo a constant change. Should you wish to amortize premiums the following sections would have to be combined with the entries cited in section 556.

495. **What This Account Should Contain.** This account should contain the assets constituting investments which the trustees hold for the various life tenants and remaindermen. Stocks and bonds are usually the investments constituting trust funds, and, if other kinds of property such as leaseholds, mortgages and the like are held, a different account under a more explanatory name might be opened, viz: Trustees' Leasehold Property a/c, or Trustees' Mortgages Receivable a/c. These are opened in addition to the Trustees' Investments a/c, the latter represents only the stocks and bonds.

496. **Opening Entry.** This account is opened on the transfer of stocks and bonds from the executors to themselves as trustees to be held in trust for the life tenants and remaindermen. Assume that

$5,000.00 U. S. bonds go in trust for J. Brown.
$5,000.00 U. S. bonds go in trust for A. Jones.

First Journal Entry:

Estate Corpus a/c	$10,000 00	
To J. Brown Trust Security a/c		$5,000 00
A. Jones Trust Security a/c		5,000 00

Second Journal Entry:

Trustees' Investments a/c	$10,000 00	
To Estate Investments a/c		$10,000 00

This latter entry shows that the trustees are now charged with these bonds.

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497. **Should Be Charged With.** This account should be charged with all the stocks and bonds transferred by the executors to themselves as trustees. Also with any future purchases. Thus, suppose A. Jones besides having received $5000 in bonds, had also received $500 in cash to be invested by the trustees. This cash would have been placed to the credit of A. Jones Trust Cash a/c. The trustees then buy five shares of stock.

Cash-Book Entry:

A. Jones Trust Cash a/c	$500 00	
To Trustees' Cash a/c		$500 00

Journal Entry:

Trustees' Investments a/c	$500 00	
To A. Jones Trust Security a/c		$500 00

498. **Should Be Credited With.** This account should be credited with all sales of investments, but at the original purchase price, and not with the proceeds of the sale. Thus, A. Jones' five shares of stock bought at 100 and charged to this account $500 are now sold for 90, proceeds $450.

Cash-Book Entry:

Trustees' Cash a/c	$450 00	
To A. Jones Trust Cash a/c		$450 00

Journal Entry:

A. Jones Trust Security a/c	$500 00	
To Trustees' Investments a/c		$500 00

From the above entries it will be seen that any profit or loss in such a transaction is adjusted entirely in that particular individual's Trust Cash a/c.

499. **This Account Closes.** As long as the trust is in force this account will continue. When the trust ceases this account is closed. If the investments revert to the estate, then—

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First Journal Entry:

Estate Investments a/c.
To Trustees' Investments a/c.

Second Journal Entry:

A. Jones Trust Security a/c.
To Estate Corpus a/c.

or if the investments of the trust are delivered by the trustees to some other person as provided in the will (say to W. Brown) then,

A. Jones Trust Security a/c.
To W. Brown, Remainderman a/c.

showing that these funds are now placed to his credit; again,

W. Brown, Remainderman a/c.
To Trustees' Investments a/c.

This entry shows that the funds have been delivered to the remainderman.

500. **Applicable to Administrators.** The remarks made herein do not apply to the administrator.

Trustees' Investment a/c.

Dr.		*Cr.*	
To		By	
Estate Investments	a/c	Remainderman	a/c
Trust Security (prefix name)	"	Estate Investments	"
		Trust Security	"

Trustees' Leasehold Property a/c.

Dr.		*Cr.*	
To		By	
Executors' Leasehold Prop'ty.	a/c	Executors' Leasehold Prop'ty.	a/c
Trust Security (prefix name)	"		

Trustees' Mortgages Receivable a/c.

Dr.		*Cr.*	
To		By	
Mortgages Receivable	a/c	Executors' Mortgages Rec.	a/c
Trust Security (prefix name)	"		

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TRUSTEES' INCOME INVESTMENTS A/C.

Showing Investments in Stocks, Etc., by Trustees Out of Accumulated Income from Trust Funds.

Applicable to Executors Becoming Trustees.

501. **General Remarks.** Income from trust funds is rarely invested by the trustee because it is generally paid right over to the life tenant, but there are cases where income should be invested. For instance, where trustees are appointed for persons "non compos mentis," that is, persons who are legally mentally incompetent to transact business. As already explained, the word "Investments" in this book means stocks, bonds, scrip, etc., and not mortgages, notes, leaseholds, etc. Hence, if income from a trust fund is invested in a mortgage or leasehold property, use as a name for the account whatever is applicable in your case, as, for instance, "Mortgages Receivable a/c." A subdivision of different kinds of securities or property is of value in that a clearer understanding of the books may be obtained at once, without the trouble of having to analyze one general account for all classes of property to find out what kinds of securities or property such an account contains.

502. **What This Account Should Contain.** This account should contain investments made by the trustees out of the accumulated income collected from the trust fund.

503. **Opening Entry.** When an investment from the accumulated income is made the opening entry occurs. Or if a dividend is received in stock, scrip, or certificate of indebtedness and is declared to be income, then the opening entry would also be made. Suppose, for example, a $3000 mortgage and 50 shares ($5000) R. R. prfd. stock have been purchased by the trustees out of A. Black's accumulated income.

Cash-Book Entry:

A. Black Trust Income a/c.....	$8,000 00	
To Trustees' Cash a/c.....		$8,000 00

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Journal Entry:

Trustees' Income Investments a/c	$5,000 00	
" " Mortgages Receivable a/c	3,000 00	
To A. Black Trust Income Security a/c		$8,000 00

504. **Should Be Charged With.** This account is charged only when investments are made as per section 503.

505. **Should Be Credited With.** When a sale is made of any of these income investments the trustees should receive credit in this account for the same amount with which they stand charged, regardless whether the proceeds of the sale are more or less. Thus supposing five shares R. R. prfd. (purchase price $500) sold at 90 or for a total of $450, then—

Cash-Book Entry:

Trustees' Cash a/c	$450 00	
To A. Black Trust Income a/c		$450 00

Journal Entry:

A. Black Trust Income Security a/c	$500 00	
To Trustees' Income Investments a/c		$500 00

It will be seen that the loss is adjusted through A. Black's Trust Income a/c without further entries. Any profit would have been adjusted in the same manner. When relieving the trustee of a charge you must use the purchase or inventory valuation, and adjust the actual cash difference between this valuation and the proceeds received, through the life tenant's Cash Income a/c.

506. **This Account Closes.** This account will close when all securities purchased with income have been disposed of.

507. **Applicable to Administrators.** These remarks do not apply to the administrator.

Trustees' Income Investments a/c.

Dr.		*Cr.*	
To		By	
Trust Income Security (Prefix name.)	a/c	Trust Income Security (Prefix name.)	a/c

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Trust Security A/C.

(Prefix Name)
Representing Securities Held for This Particular Trust.

Applicable to Executors Acting as Trustees.

508. **General Remarks.** This account concerns executors who also become trustees. It represents corpus securities or investments of all kinds, which have come or may come to the trustees to be held in trust for the life tenant with remainder over; and for each life tenant a separate account should be kept, thus—

John Brown Trust Security a/c.
John Jones Trust Security a/c.

What becomes of the "remainder" is, of course, governed by the terms of the will.

As it is impossible to foresee and give all the examples of trusts that a testamentary disposition may provide for, it is best, for the sake of uniformity, to make use of the same two which have already been used in this book under the head of "Trust Funds." (Chapter XII, sec. 465.) They are as follows:

(1) A leaves a certain sum of money to T in trust for the use of B during his natural life, but at the death of B the corpus of the trust is to revert to the estate of A for general distribution.

(2) A leaves a certain sum of money to T in trust for the use of B during his natural life, with the power in B to will the corpus.

While the trustees are liable to the life tenant for all income derived from the corpus, as a matter of fact the account shows what the trustee is at present holding for the remainderman. The remainderman in example (1) is, of course, the estate, as the executors receive back the trust fund from the trustees when B dies. The remainderman in example (2) is the person or persons to whom B wills such remainder. In this latter example the trustees turn the funds over to the executors of B for the benefit of those to whom B has willed the remainder.

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509. **What This Account Should Contain.** This account should contain corpus securities of all kinds, that is, stocks, bonds, mortgages, etc., transferred by the executors to themselves as trustees for this particular trust, but no cash. This account, therefore, contains only the invested portion of the corpus of the trust fund. The debit offset in the ledger to it is, of course, the "Trustees' Investments a/c," "Trustees' Mortgages Receivable a/c," or "Trustees' Leasehold Property a/c," according to what the property left may consist of. These various accounts of the trustees may, at the option of the accountant, be consolidated into one Trustees' Investments a/c, but it is just as well, and very often better to class stocks, bonds and scrip together, keeping other property, as mortgages and leaseholds in separate accounts, *i. e.* so far as the trustees' accounts are concerned. The Trust Security a/c of the life tenant should, however, be a general one. That is, the account in the general ledger should contain the lump sum of all the stocks, bonds, scrip, mortgages, leaseholds, etc.

510. **Opening Entry.** The opening entry will occur when the court has authorized the setting aside of certain amounts, as per will, for the executors to transfer to themselves as trustees. Assuming that the testator is John Jones and that

A. Brown receives in trust
$5,000 in cash.
10,000 in stocks and bonds.
5,000 in mortgage.
2,000 in leasehold building.

J. Brown receives in trust
$20,000 in stocks and bonds.
2,000 in cash.

S. Brown receives in trust
$7,000 in mortgages.
3,000 in cash.
12,000 in leasehold building.

All values given above are as per inventory. The court having now authorized the transfer from the executors to themselves as trustees make entry,

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Journal Entry:

Trustees' Investments a/c (stocks, etc.)	$30,000 00	
Trustees' Mortgages Receivable a/c	12,000 00	
Trustees' Leasehold Property a/c	14,000 00	
To Estate Investments a/c		$30,000 00
(Executors') Mortgages Receivable a/c		12,000 00
(Executors') Leasehold Property a/c		14,000 00

This entry shows a transfer of the securities from the executors to themselves as trustees. Now an entry must be made showing that the above has been transferred from the estate of John Jones to the credit of the various life tenants:

Journal Entry:

Estate Corpus (John Jones) a/c	$56,000 00	
To A. Brown Trust Security a/c		$17,000 00
J. Brown Trust Security a/c		20,000 00
S. Brown Trust Security a/c		19,000 00

The above entries do not take care of the cash. The entry for this must be made in the cash-book. While the cash entry does not directly concern the Trust Security a/c, it does so indirectly, and for this reason the cash item of this transfer to the trustee is also given:

CASH-BOOK ENTRY.

	Executors.	Trustees.		Executors.	Trustees.
To Balance	$10,000 00		By Estate Corpus a/c, being cash transferred to		
" A. Brown Trust Cash a/c — cash portion transferred		$5,000 00	A. Brown, $5,000		
" J. Brown Trust Cash a/c—as above		2,000 00	J. Brown, 2,000		
" S. Brown Trust Cash a/c—as above		3,000 00	S. Brown, 3,000	$10,000 00	
			By Balance		$10,000 00
	$10,000 00	$10,000 00		$10,000 00	$10,000 00
To Balance		$10,000 00			

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Note that the cash portion is not credited to the Trust Security a/c, but instead is placed to the credit of a similar account entitled "Trust Cash a/c." Each life tenant of a trust should have a separate account of this kind. The postings of the total columns of the cash-book would, of course, transfer the cash from the executors to the trustees. The cash-book entry, as above stated, does not directly affect the Trust Security a/c, but when money is taken from the Trust Cash a/c and invested, then the Trust Security a/c becomes involved.

511. **Should Be Charged With.** When a sale is made of any securities credited to this account it is necessary to debit this account for a like amount. (Also see entries sec. 556 when amortization is practiced.)

Suppose that 50 shares A. B. R. R. stock were originally credited to this account at the appraised value of 100. They are now sold at 90, make

Cash-Book Entry:

Trustees' Cash a/c	$4,500 00	
To J. Brown Trust Cash a/c		$4,500 00

Journal Entry:

J. Brown Trust Security a/c	$5,000 00	
To Trustees' Investments a/c		$5,000 00

512. **Should Be Credited With.** The credits to the Trust Security a/c consist of purchases (investments) of stocks, bonds, scrip, mortgages, leaseholds, etc. In the cash-book entry section 510.

J. B. has to the credit of his Trust Cash a/c	$2,000 00
A. B. has to the credit of his Trust Cash a/c	5,000 00
S. B. has to the credit of his Trust Cash a/c	3,000 00

Assume these amounts to be invested so as to produce income for the respective life tenants, each being entitled to the income derived from the corpus.

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Cash-Book Entry:

J. Brown Trust Cash a/c:		
Stocks and bonds purchased	$2,000 00	
A. Brown Trust Cash a/c:		
Mortgage purchased	5,000 00	
S. Brown Trust Cash a/c:		
Leasehold purchased	2,000 00	
To Trustees' Cash a/c		$9,000 00

The above entries having been made in the cash-book, charge each purchase to its respective Trust Cash a/c, because such Trust Cash a/c is thereby decreased. Through the trustees' total column of the cash-book Trustees' Cash a/c is credited, showing that the trustees have paid out this money. The trustees must then charge themselves with these purchases and credit the various individual Trust Security Accounts, using the purchase price as the basis. Therefore—

Journal Entry:

Trustees' Investments a/c:		
Stocks and bonds	$2,000 00	
Trustees' Mortgages Rec. a/c:		
Mortgages purchased	5,000 00	
Trustees' Leasehold Property a/c:		
Leasehold building	2,000 00	
To J. Brown Trust Security a/c:		
Stocks and bonds		$2,000 00
S. Brown Trust Security a/c:		
Leasehold building		2,000 00
A. Brown Trust Security a/c:		
Mortgage purchased		5,000 00

The credits to this account consist of all the investments, such as stocks, bonds, mortgages, leaseholds, etc., but not cash, held in trust for any particular life tenant. When crediting Trust Security a/c always use the inventory valuation, and if subsequent purchases be made then use the purchase price, but let the Trust Cash a/c take care of the broker's commission.

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513. **Closes Into.** This account does not close into any other account until the trust ceases. If any of the securities or holdings of the corpus trust are reduced to cash by sale, then, of course, the account must be charged with such reduction, and the trustees credited with a like sum at the inventory valuation through the journal. The proceeds of the same are entered in the cash-book, Trust Cash a/c being credited, and the Trustees' Cash a/c being debited with them. At the death of the life tenant, if the trust, by the terms of the will, reverts to the estate, then

Journal Entry:

Trust Security a/c (prefix name).
    To Estate Corpus a/c.

thus closing the Trust Security a/c of that particular life tenant, and turning the same back into the Estate Corpus a/c from which it originally came.

The next entry would, of course, be made to relieve the trustees, and charge the executors with the transfer—

Journal Entry:

Estate Investments a/c.
(Executors') Mortgages Rec. a/c.
(Executors') Leasehold Property a/c.
    To Trustees' Investments a/c.
        Trustees' Mortgages Rec. a/c.
        Trustees' Leasehold Property a/c.

This last entry is, of course, entirely dependent upon the kind of property to be transferred. It may consist entirely either of mortgages, investments, or leaseholds, or a mixture of all three.

514. **Applicable to Administrators.** The administrator would not have use for an account of this kind.

Trust Security A/C.
(Prefix Name.)

Dr.		*Cr.*	
To		By	
Remainderman	a/c	Estate Corpus	a/c
Estate Corpus	"	Trustees' Investments	"
Trustees' Investments	"	Trustees' Mortgages Rec.	"
		Trustees' Leasehold Property	"

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TRUST CASH A/C.

(Prefix Name)
Showing Corpus Cash of the Trust.

Applicable to Executors Becoming Trustees.

515. **General Remarks.** To this account should be prefixed the name of the life tenant, as follows:

John Brown Trust Cash a/c.

The debit offset to this account is the Trustees' Cash a/c with one exception, *i. e.*, when there is standing to the credit of this account an amount which the trustees do not care to let remain idle in a national bank, and in order to obtain interest deposit it in a savings bank. In that event the debit offset to that portion of this account, which is so deposited in a savings bank, would be an account bearing the name of that savings bank. For example, should $500 be thus deposited the trustees would simply draw a check payable say to the Home Savings Bank, and make

Cash-Book Entry:

Home Savings Bank	$500 00	
To Cash a/c (Trustees')		$500 00

It is far better to take amounts placed on savings deposit out of the regular cash account; for savings accounts cannot be handled with the same facility as cash which stands subject to check. It is also not proper to treat such a deposit in a savings bank as an "investment," because the court does not consider such a deposit as anything but "cash on hand;" and when you report the deposit to the court you must report it as "cash on hand."

Hence, it follows that the balance standing to the credit of the life tenant's Trust Cash a/c may consist of cash which is on deposit in both national and savings banks. This can be easily ascertained

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by deducting that which is deposited in the savings bank as per bank-book, from the balance of the account. The remainder is the amount on deposit in the national bank and vice versa.

516. **What This Account Should Contain.** Only cash should be placed to this account, and then only such cash which belongs to the corpus of the trust fund. Income derived from the corpus cash or securities does not under any circumstances belong to this account, except where amortization is practiced by the trustee. (See secs. 554, 555 and 556.)

517. **Opening Entry.** The opening entry to this account will occur when the executors transfer to themselves as trustees any cash which goes to make up the corpus of the trust fund. Thus, if on transferring certain securities, etc., they also transfer say $500 in cash to themselves as trustees for J. Brown, we have

Cash-Book Entry:

Estate Corpus a/c	$500 00	
Trustees' Cash a/c	500 00	
To Executors' Cash a/c		$500 00
J. Brown Trust Cash a/c		500 00

Of course, the charge to the Trustees' Cash a/c above and the contra credit for the Executors' Cash a/c are made through the total columns of the cash-book. It might also be noted that this entry does not require the drawing of checks, and is, consequently, more in the nature of a journal entry than anything else, but the fact that a transfer from the Executors' Cash a/c to the Trustees' Cash a/c is to be made requires that the entry be put through the cash-book instead of the journal.

If nothing but securities have been transferred to the trustees then it is not necessary to have this account. Let us assume this to have been the case; also that some time after, the court orders a sale of one 5% bond out of the trust securities, appraised per inventory at 80 (at which value the trustees assumed the property)

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to be sold for 50, less brokerage of $1.25. When the proceeds are received from this sale make entry—

Cash-Book Entry:

Trustees' Cash a/c.....$498 75
  To J. Brown Trust Cash a/c..... $498 75

The above entry charges the trustees with the cash received from the sale, and credits the J. Brown Trust Cash a/c with a like sum. Now it must be understood that it is necessary to credit the Trustees' Investments a/c with the sale of these securities (at the inventory value, and not the selling price), charging the J. Brown Trust Security a/c with a like sum.

Journal Entry:

J. Brown Trust Security a/c.....$800 00
  To Trustees' Investments a/c..... $800 00
For sale of one 5% bond, appraised 80, sold 50. (See cash-book.)

The above illustration shows that the J. Brown Trust Cash a/c acts as a Profit and Loss a/c for the Brown Trust transactions, this account taking care of all profits made, or losses incurred on sales of securities, as well as any cash received from such sales.

518. **Should Be Charged With.** The J. Brown Trust a/c is charged as the cash is withdrawn or spent for investments, etc. Thus suppose that five hundred dollars stands to the credit of J. Brown Trust Cash a/c. The trustees cannot invest this small amount in stocks to advantage; consequently, they put it in the savings bank, receiving deposit book No. 2.

Cash-Book Entry:

Home Savings Bank a/c.....$500 00
  To Trustees' Cash a/c..... $500 00
Being amount deposited as per deposit book No. 2.

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519. **Should Be Credited With.** As illustrated in section 517, this account is credited with all cash received belonging to the corpus of the trust fund. When you credit this account with the cash received you must, of course, debit the Trustees' Cash a/c with a like amount, this is done through the total columns of the cash-book.

520. **This Account Closes.** This account does not close at any stated time, except to be ruled off annually and have the balance brought down. As long as the trust is in existence and there is any cash belonging to the fund uninvested, this account will represent such uninvested cash.

521. **Applicable to Administrators.** The remarks made herein do not apply to the administrator.

Trust Cash A/C.
(Prefix Name.)

Dr.		*Cr.*	
To Trustees' Cash	a/c	By Trustees' Cash	a/c

TRUST INCOME A/C.

(Prefix Name)
Showing Income Derived from the Corpus of the Trust.

Applicable to Executors Becoming Trustees.

522. **General Remarks.** The life tenant's name should, of course, be prefixed to the above account, thus—

John Brown Trust Income a/c.

If there are several life tenants each should have a separate account.

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In trust funds it is usually the case that the life tenant receives the income, derived from the corpus of the trust, absolutely. Where the decedent so directs that "the life tenant shall receive what the trustees consider necessary for his suitable support, the balance to accumulate" there would be practically no change in the handling of this account. The only effect would be an accumulated remainder (income) which must be brought down from year to year. Such money should be invested by the trustees when a sufficient sum has accumulated.

For retention of a portion of the income in favor of the remainderman (corpus) by means of amortization see sections 554, 555 and 556.

523. **What This Account Should Contain.** Income derived from the corpus of the trust fund, as and when received, should comprise this account.

524. **Opening Entry.** Income as and when received by the trustees will cause this account to be opened—

Cash-Book Entry:

Trustees' Cash a/c.
    To J. Brown Trust Income a/c.

525. **Should Be Charged With.** The debits to this account consist of the disbursements of income made by the trustees. Thus J. Brown receives a check each month on account, and such payments of income as made are charged to this account. If accumulated income is invested by the trustees, J. Brown Trust Income a/c must be charged, thus—

Journal Entry:

J. Brown Trust Income a/c.
    To Trustees' Cash a/c.
Being cost price of stocks purchased.

Cash-Book Entry:

Trustees' Income Investments a/c.
    To J. Brown Trust Income Security a/c.

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As regards the broker's commission on any purchase it is just as well to drop this entirely, merely charging it against the income account through the cash-book, thus letting the J. Brown Trust Income a/c take care of this item.

526. **Should Be Credited With.** The credits to this account are the cash items received as income and derived from the corpus. Ordinarily there are no other credits to this account. If, however, you receive a certificate of indebtedness, or a stock dividend held to be income, you must, in such a case, make—

Journal Entry:

Trustees' Income Investments a/c.
To J. Brown Trust Income Security a/c.

This entry shows that the Trust Income Security a/c of the life tenant has received credit for the stock or paper. Collateral for cash should not be put in the Trust Income a/c, as this should contain only cash transactions.

527. **This Account Closes.** This account remains active as long as the corpus of the trust is producing any income. It shows the liability of the trustees to the life tenant; they must pay over the income as it is received by them and if there are other life tenants each life tenant must have—

Trust Cash a/c.
Trust Income a/c.
Trust Security a/c.

and if there is any income which is invested, then a

Trust Income Security a/c.

Before each of the above mentioned accounts the life tenant's name should be prefixed.

528. **Applicable to Administrators.** The remarks made herein do not apply to the administrator.

Trust Income A/C.

Dr.		*Cr.*	
To Trustees' Cash	a/c	By Trustees' Cash	a/c

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TRUST INCOME SECURITY A/C,

(Prefix Name)
Showing Cash Income Invested.

Applicable to Executors Becoming Trustees.

529. **General Remarks.** This account is unusual. It is the result of income being invested by the trustees of an estate. As cash and securities or property other than cash should not be mingled in the Trust Income a/c, this account is opened. Cases in which income is most apt to accumulate is when the decedent has left a fund for the use of a person whom he thinks incapable of judiciously taking care of the same.

530. **What This Account Should Contain.** This account contains only securities bought out of the cash income, or securities which have been received as income in the shape of dividends, etc.

531. **Opening Entry.** Suppose that J. Brown, the life tenant, as per will, has received ample for his support; the income accumulated to date being $2000, which stands to the credit of the J. Brown Trust Income a/c. The Trustees now buy 20 shares of stock at 100—

Cash-Book Entry:

J. Brown Trust Income a/c.....	$2,000 00	
To Trustees' Cash a/c.....		$2,000 00

Journal Entry:

Trustees' Income Investments a/c.....	$2,000 00	
To J. Brown Trust Income Security a/c.....		$2,000 00

The cash-book entry charges the Trust Income a/c with the securities bought, and at the same time relieves the trustees of the cash expended out of their Trustees' Cash a/c. The journal entry charges the Trustees' Income Investments a/c with the securities, and credits J. Brown Trust Income Security a/c with such purchase made for his account.

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Assuming that a stock dividend of fifty shares, which has been held to be income, has been received, then make—

Journal Entry:

Trustees' Income Investments a/c.
To J. Brown Trust Income Security a/c.

532. **Should Be Charged With.** The debits to this account are the sales of the securities, or the final disposition of them by delivery to the life tenant. If you part with the securities you charge this account, and credit the Trustees' Income Investments a/c at the original valuation.

533. **Should Be Credited With.** As explained in section 531, this account is credited with the securities received as income, or purchased out of cash income. If purchased the basis is, of course, the buying price. If received gratis the trustees are at liberty to put a value upon them, but when doing this it is always better to make the valuation somewhat lower than the actual market value. The court will not ordinarily appraise the securities, but they will hold you strictly accountable for so much stock, etc.

534. **This Account Closes.** This account only closes when the trust has ceased, or when the securities comprising this account have been otherwise disposed of.

535. **Applicable to Administrators.** The remarks made herein do not apply to the administrator.

Trust Income Security A/C.

(Prefix Name.)

Dr.	*Cr.*
To Trustees' Income Investments a/c	By Trustees' Income Investments a/c

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Trust Corpus Expense A/C.

(Prefix Name)

Applicable to Executors Becoming Trustees.

536. **General Remarks.** The use of this account is generally unnecessary. It takes the place of the Expense Corpus a/c when the estate reaches the trustees and bears the same relation to the Trust Income Expense a/c that the Expense Corpus a/c does to the Expense Income a/c. The use of this account is generally unnecessary because in small estates the corpus expenses are small and can be readily charged against the Corpus Cash a/c. Where large estates are left in trust for the benefit of some undertaking it is probable that not only the Corpus Trust Expense a/c but a number of other accounts which would properly classify and show the expenses of the trustee in the different branches of the undertaking would be necessary. The accounts would be opened in the same manner that a business classifies them; that is, according to the light which they will shed with regard to the cost of articles manufactured, repairs, office expenses, etc. One account may be split into as many subdivisions as the accountant may think it proper to have. This has, however, no effect on the system of accounting.

537. **Should Be Charged With.** The question of expenses against corpus and income is just as important for the trustee as for the executor and should always be taken up with the legal adviser before any entries are made. For the ordinary expenses the rule is fairly uniform in the different States. For detailed information as to what is to be charged against this account refer to Chapter XI, section 456.

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Trust Income Expense A/C.

(Prefix Name)

Applicable to Executors Becoming Trustees.

538. **General Remarks.** This account takes the place of the Expense Income a/c when the estate reaches the trustees, and bears the same relation to the Trust Corpus Expense a/c that the Expense Income a/c does to the Expense Corpus a/c. It is not often used because as the expenses are generally small and few as compared with those incurred by the executor during the administration of the estate, they can more readily be charged at once against the Trust Income a/c. Moreover, if an estate was divided into a number of shares, each share to be held in trust for a different person, it would mean to open a separate Trust Income Expense a/c for each.

539. **Should Be Charged With.** The remarks made under Trust Corpus Expense a/c, section 537, will also hold good here.

Accounts of Trustees Not Originally Executors.

540. **In General.** In cases where parties are appointed as trustees under a will, other persons being the executors, the accountant will find nothing new which has not been fully covered by the principles and illustrations set forth above. In fact, accounts of that nature would be simpler; and therefore they will not be taken up in detail here.

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CHAPTER XIV.

MISCELLANEOUS MATTERS.

Investments Record Book.

541. **General Remarks.** In order that a detailed list of stocks, bonds, etc., may be avoided in the general ledger, secure a book having dimensions of about 8x7 inches with composition book ruling. No columns for dollars and cents are necessary, as they can be ruled as required. In this book can be kept full information as illustrated below, while the controlling accounts in the general ledger need only show the lump sum as per inventory value of all the stocks and bonds, etc.

542. **Its Relative Uses.** Four distinct divisions are shown on each page of this book, and each marks a stage in the settlement of the estate, thus taking any given security on any page you can follow it from the time it comes into the possession of the personal representative until it severs its connection with the estate. Thus each page being allotted to one particular kind of stock or bond we have the history of such security in compact and intelligent form.

The purposes of this book may be summed up according to the divisions of each page as follows:

543. **First Division of Illustration.** (See p. 274.) This division of each page serves as a record for the itemized information regarding the securities, etc., held for the estate. The controlling account in the general ledger for this first division is the Estate Investments a/c, and the total value of the securities in each first

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division of the Investments Record Book should agree with its controlling account. When disposition is made of any of these securities, thus necessitating a transfer of them from the first division to divisions Nos. 2, 3 and 4 or either as the case may be, merely run a red line through the stock or bond number so transferred, placing the transfer in its proper division. For instance, having transferred bonds Nos. 54000 and 54001 from the first division to the second division of our illustration a red line should have been lightly run through the numbers transferred. The same applies to the bonds transferred to the third and fourth divisions. Likewise a correction should be made in the figures representing values which may be changed by reason of these transfers.

It might be noted that in the case of bonds which are payable to bearer they can be transferred without the necessity of securing new bonds with different numbers. In the case of registered bonds and share certificates of stock the transfer from one name to another necessitates the surrender of the old security and the issuance of a new one, which in all cases will bear a different number by which it is designated. Hence where this occurs, transfer from the first division of the page the old number, placing it in the second, third or fourth division according to the kind of transfer made. Now when you receive the new certificate run a line through the old number placed in the second, third or fourth division and place the superceding number just above or below it.

544. **Second Division of Illustration.** In the course of settling the estate the securities, etc., are either sold or distributed. The executor may distribute to himself as trustee, and it is this stage of the settlement of the estate which the second division of the illustration embodies. This change can be noted by simply ruling out the original figures in first division and transferring them to the second division in the manner explained in the section above. When transferring to this division do so at the inventory valuation.

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The controlling account in the general ledger for this second division throughout the Investments Record Book is the Trustees' Investments a/c.

545. **Third Division of Illustration.** During the administration of the estate some of these securities may be distributed to the legatees. In this case the personal representative will, upon the delivery, have passed all title to the securities thus disposed of. A transfer of this kind should be recorded in the third division of the illustration. Do not forget to draw lines through the securities so as to take them out of the first division. There is, of course, no controlling account in the general ledger for the third division because upon delivery to the legatee outright the estate has no further title to the property so delivered. When making transfer do so at the inventory valuation.

546. **Fourth Division of Illustration.** During the administration the personal representative may need cash. To obtain this he may have to petition the court to allow him to sell certain stocks or bonds, etc. Should he obtain such permission and sell them ($3000 S. A. L. bonds as per illustration) then make a note of the sale in this fourth division, at the same time using either the price at which they were sold or the net proceeds after deducting the broker's commission, only be consistent in what you use. In the first division rule out the numbers of the securities so sold and correct the valuation figures by deducting the inventory valuation of the securities thus sold.

547. **The Index.** (See p.275.) An index to this book is necessary. Like the book, it should contain as much intelligent information as can be placed in it. The following illustration for an index is suggested for two purposes; first, to locate the contents of the book; and secondly, to show what coupons must be clipped at the end of each month and deposited; and when, and what dividends may be expected to come in. The accompanying illustration shows in the first column to the left, headed "Page Number" the

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place where the page number locating each security in the book should be placed.

The second column contains the name of the company. It is well to have the names classified alphabetically and they are so arranged on this index. There is, however, no necessity for an alphabetical arrangement in the book itself.

The third column gives a superficial but sufficient description of the security.

The fourth column contains opposite the name of each bond the number of coupons which must be clipped at each coupon maturity date.

The remaining columns are twelve in number. One is allotted to each month. At the head of each column is placed its respective name and number. Thus February is the second month, so the column is headed

February
2

Let us take for instance the Alabama Northern Railway bonds given at the head of this index. The coupons of these bonds fall due on February 1. Something must be put in the February column to show this. Now as all coupons mature on the first of any month it is unnecessary to state the particular day on which they fall due, so we merely put in the number of the month. An advantage which accrues from doing this is that when looking down this column if your eyes strike a two there is no uncertainty as to whether it is located in the January column, the February column or the March column. It is absolutely certain that it means February.

Of course, such an index may or may not undergo considerable change while the estate is being transferred, but the estate once transferred, the index remains practically permanent except in the case of sales and purchases. For purchases additions should be made to the index.

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[Page from Investments Record Book.]

April 1st, 1900.

ESTATE INVESTMENTS.

SEABOARD AIR LINE RAILWAY COMPANY

1st Mortgage 4 Per Cent. Bonds, Due 1950; *Coupons Payable January and July.*

Nos. 54000, 54001, 54002, 54003, 54004, 54005, 54006, 54007.

Total par value $8000, appraised at 90.....$7,200 00

The above bonds having all been distributed to the 2d, 3d and 4th divisions below, everything in this first division is cancelled by the red lines.

July 15th, 1900.

TRUSTEES' INVESTMENTS.

At distribution of the above bonds the following were held in trust as follows:

Trust No. 1. For John Jones. Bond No. 54000, $1,000, at 90....$900 00
Trust No. 2. For W. Jones. Bond No. 54001, $1,000, at 90.... 900 00

July 15th, 1900.

DELIVERED OUTRIGHT.

John Jones. Bonds 54002/4, $3,000, at 90.....$2,700 00

July 15th, 1900.

SOLD.

To Jones & Smith, Bonds 54005/7, $3,000, at 91 and commissions..$2,726 25

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INDEX TO INVESTMENTS RECORD BOOK.

Page Number.	Name of Company.	Bonds or Stocks.	Number of Coupons to clip.	Jan. 1	Feb. 2	Mch. 3	April 4	May 5	June 6	July 7	Aug. 8	Sept. 9	Oct. 10	Nov. 11	Dec. 12
	A														
7	Alabama Northern Ry.....	Bonds	2	..	2	..	..	..	..	..	8	..	..	..	..
	B														
6	Building Association.....	Bonds	10	1	..	..	..	..	..	7	..	..	..	..	..
	C														
2	Carolina Railway.....	Bonds	5	..	..	3	..	..	..	..	..	9	..	..	..
	D														
20	Dublin City.....	Stock	.....	..	..	..	4	..	..	..	..	..	10	..	..
	E														
19	Erie Gas Co.....	Stock	.....	..	..	..	..	5	..	..	..	..	..	11	..
	F														
4	Fort Wayne & Wab. Vall. Ry....	Bonds	6	..	..	..	..	..	6	..	..	..	..	..	12
	G														
5	Georgia & Ala. Ry.....	Bonds	2	..	2	..	..	5	..	..	8	..	..	11	..
	H														
9	Houston East. & West. Ry.....	Bonds	3	1	..	..	4	..	..	7	..	..	10	..	..
	I														
8	Illinois Central Ry.....	Bonds	.....	..	..	3	..	..	6	..	..	9	..	..	12
	J														
	K														
	L														
	M														
	N														
25	Northern Electric Ry. Co.....	Stock	.....	..	..	3	..	..	6	..	..	9	..	..	12
	O														
	P														
	Q														
	R														
	S														
15	Seaboard Air Line Ry.....	Bonds	8	1	..	..	..	..	..	7	..	..	..	..	..

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Petty Cash.

548. **In General.** In the management of estates it will be found best to omit having such a fund. It is far better to pay all bills by check. If, however, it is found necessary to have petty cash in the office, make it a rule to pay out of it only small amounts. Assuming that the petty cash fund is $10.00, we would draw a check for that amount, and when entering in the cash-book would say on the credit side:

By Contingent (or Petty Cash) Fund, $10.00.

When posting to the ledger open an account for this and post to the debit of it.

As the ten dollars is spent keep a record of it in detail in a book. When you have spent say $9.50 and find you need more money, draw a check for $9.50. In the book in which you keep the record of the expenditures from this fund, rule the footing off and opposite it write "Paid (give date) by check No....." Then glance over the expenditures; ascertain just what accounts they should be charged to, and enter in the cash-book accordingly. Thus we deduce that having once drawn the check for the original fund ($10.00) and posted the same to the debit of Contingent Fund a/c (or Petty Cash a/c) in the ledger we do not make any further entries to this account until the fund is increased (as for example to $15.00), or decreased (as for example to $5), or wiped out altogether. Spend the money as needed, and when the fund runs short replenish it by just the amount which has been spent to date by drawing a check for such amount, and the amount so spent is then entered in the cash-book against the accounts for which the expenditures have been made.

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Transferring Bonds and Stocks.

549. **Bonds.** Except in the case of registered bonds, bonds are payable "to bearer" and hence can be easily negotiated without the formality of endorsement incident to the transfer of registered bonds.

550. **Stocks.** This class of security requires endorsement by the stockholder of record, that is, the one on the books of the corporation, and the formal transfer by its secretary or registrar before legal title passes.

551. **Stocks and Registered Bonds in the Name of the Deceased.** The personal representative receives all securities standing in the name of the deceased, and he should not have them transferred on the books of the respective corporations, nor endorse these securities until he is ready to dispose of or distribute them.

552. **When to Transfer.** The first and most likely contingency to occur involving the necessity of a transfer would be where the executor needs cash to defray the expenses of the estate, or to pay the general legacies, in which case he must first petition and then have signed an order of court directing such sale and transfer.

Secondly, when specific legacies, should they consist of bonds or stocks, are to be paid. In that case the security would be transferred directly from the name of the deceased to that of the specific legatee.

Thirdly, when funds are to be set aside to be held in trust or to guarantee an annuity. Here in the case of the trust funds the transfer would be made from the name of the deceased directly to the trustee; and in that of the annuity to the executor.

Fourthly, when the residue of the estate is to be distributed to the residuary legatees or heirs-at-law.

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553. **Formalities of Transferring.** When the representative is ready to dispose of or distribute any securities he must petition the court through his attorney for the permission to do so; whereupon if the court finds the reason given for the sale or distribution satisfactory, it will pass an order authorizing the representative to do so.

The representative will then get enough certified copies of the order so that he may have one to file with each of the different kinds of securities at the office where it must be presented for transfer.

Now there are two different certified copies of orders. The one is simply a copy of the order certified to by the clerk of the court which passed the order that it is a bona-fide copy of the original. This copy is good for the transfer of all securities which have the office of transfer in the State where the order was passed.

The other one is what is known as a "certified copy under the act" or to be more explicit it is the above certified copy to which the judge, in accordance with an Act of Congress has added his certificate that the man who certified to the copy was in fact at the time clerk of the court. This "copy under the act" must be filed with the companies who have their office of security transfer in another State from that where the order was passed. In rare instances some companies require that a certified copy of the will is also filed with them.

After the representative has his certified copies of the order he must get out his securities and assign them properly. It is important that the signature to the assignment should be exactly as it appears upon the face of the document, and it makes no difference whether he is acting in the capacity of executor, administrator or trustee, it should show clearly whether he is acting for the

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estate or some trust growing out of it and whose estate it is. For instance—

(1) "John Brown, executor for the estate of George White, deceased."
(2) "John Brown, administrator for the estate of George White, deceased."
(3) "John Brown, trustee for the estate of George White, deceased."
(4) "John Brown, trustee for James Jones under the last will and testament of George White, deceased."

The first two examples, and those only, would always be used by the personal representative when making the first assignment after taking over the property of the decedent. As for the other two, they should be used in later transactions, but even this would depend very much on how the representative had caused to be filled in the name of the assignee, or how the new certificate read; because the signature to the assignment on the back of the certificate must be the same as the name in the body of the certificate. Hence, when the representative transfers to himself as trustee he should fill out the assignment in the terms of examples 3 and 4 as the occasion requires.

Now it is important to note that the logical and theoretical legal procedure is to first have all securities belonging to the estate of the deceased transferred on the books of the corporation to the personal representative; and then the new certificate should be endorsed by him, and the whole lot or part transferred to himself in the capacity of trustee or to any third party, as the occasion may demand. But practice does not always agree with theory and so it is in this case. When it comes to transferring stocks and bonds, the general practice is to eliminate the intermediate step of the personal representative and transfer them directly from the name

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of the deceased to the beneficiary, trustee, specific legatee, residuary legatee or heir-at-law, as the case may be, unless, of course, there should be some reason why the representative in his capacity of executor or administrator should be compelled to hold them for any length of time. A good example of this is where the executor must hold a number of securities to guarantee an annuity.

Amortization.

554. **Definition.** Amortization is "the extinguishment of a debt by means of a sinking fund," and when applied to trust estates would mean the extinguishment of the premiums paid by the trustees on bonds, bought out of the corpus funds, so that at the maturity of the bond the premium paid will not be lost, and become a charge against the corpus of the trust, but that, during the years preceding maturity, the life tenant will receive interest only at the rate per cent. per annum earned on the sum invested, instead of receiving the fixed interest on the face or par value of the bond.

555. **General Practice.** In trust estates there are two interests:

(1) Life Tenant.
(2) Remainderman.

The respective rights of these two interests in the fund held in trust should be carefully guarded by the trustee. He should take care to invest in only the highest grade of securities which will assure safety to principal, as well as to interest. Any securities invested in should be approved by the court. These are mostly bonds, and nearly always command a premium. If the security purchased is held until maturity it will be redeemed at par, and any premium which was paid for it will be lost. Therefore, to pay the life tenant 6% interest on this bond, whereas the interest earned on the sum invested is only 5% would seem obviously unfair to the remainderman, since the difference would be drawn from the

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corpus or principal of the trust. Where amortization is practiced, the amount paid to the life tenant is always at the same rate or per cent., and this rate or per cent. is termed the basis for the calculation. At the end of the first interest period this rate is calculated on the sum invested, and thereafter on the sum invested after first deducting therefrom the total amount previously amortized. Thus, the life tenant receives more during the first years, but less during the later years of the life of any bond, and at the maturity of the same the amounts amortized should have been so calculated that the book value of the bond will be its face, or par value, and the premium will have been paid by the amortized amounts added to the corpus at the end of each six months' interest period.

In New York the practice of amortization is upheld by the courts as an equitable and proper way of handling trust funds. In that State, however, the principle only holds good with reference to securities purchased by the trustee at a premium and not with reference to securities, owned by the testator which the trustee has taken over, appraised at a premium. In other words the whole interest received from securities turned over from the estate of the testator should be treated as income and the life tenant should not be charged with any part of the premium at which such securities may have been inventoried.

Of course the terms of the will and the surrounding circumstances might show a different intention on the part of the testator. For uniformity of practice the court has decided that this intent to have the life tenant receive the full income from securities purchased at a premium, without reduction by amortization, must be expressed in the very clearest manner.

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556. **How Calculated.** The basis for the calculation is, of course, the per cent. per annum earned on the sum invested. There are four factors which enter into the determination of this basis—

(1) Cost price of bond.
(2) Fixed interest on par value.
(3) Number of interest payments annually.
(4) Maturity date of bond.

With these facts known, a table of bond values will give the basis. Suppose that a bond is bought, and the premium paid is to be amortized, and that we have

(1) Cost of bond $1043.80.
(2) Fixed interest 6%.
(3) Interest payable January 1, July 1 each year.
(4) Matures in five years.

By turning to a table of bond values it would be found that the above bond would return the investor 5% on the sum invested. Hence, 2½% of $1043.80, or $26.08 would be the interest earned the first six months on the investment, and the difference between this and $30.00, or $3.92, would constitute the amortization and be placed to the credit of the corpus of the trust. The book value of the bond would then, of course, have to be reduced to $1039.88, all of which could be accomplished by

Journal Entry:

Trustees' Cash a/c	$3 92	
Trust Security a/c	3 92	
To Trust Cash a/c		$3 92
Trustees' Investments a/c		3 92

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The following illustration will show the principle for five years, based on a 6% bond purchased for $1043.80, having five years to run, yielding on purchase price 5%, interest payments January 1, July 1 each year.

Date	Interest on Par Value 6%.	Interest Earned, 5%.	Amortization.	Scale of Book Value.
July 1, 1900.....Cost	.....	.....	....	$1,043 80
Jan. 1, 1901.....	$30 00	$26 08	$3 92	1,039 88
July 1, 1901.....	30 00	26 00	4 00	1,035 88
Jan. 1, 1902.....	30 00	25 89	4 11	1,031 77
July 1, 1902.....	30 00	25 79	4 21	1,027 56
Jan. 1, 1903.....	30 00	25 69	4 31	1,023 25
July 1, 1903.....	30 00	25 58	4 42	1,018 83
Jan. 1, 1904.....	30 00	25 47	4 53	1,014 30
July 1, 1904.....	30 00	25 34	4 66	1,009 64
Jan. 1, 1905.....	30 00	25 24	4 76	1,004 88
July 1, 1905.....	30 00	25 12	4 88	1,000 00
	$300 00	$256 20	$43 80	

Odds and Ends.

557. **Securities of Insolvent Concerns Redeemed.** Should the personal representative or trustee hold any securities in a corporation which has gone into the hands of a receiver, and it should so happen that a dividend is declared for the security holders then treat such dividend as corpus and not income; provided, of course, the securities themselves are corpus.

558. **Personal Property Returned as of "No Value" by the Court.** The appraisers may appraise certain property set forth in the estate inventory as of "no value." This does not, however, relieve the executor or administrator from the responsibility of accounting for the same, as these securities may afterwards become of some value. The executors generally hold on to such securities or distribute in bulk to themselves as trustees if any other property goes that way. Should the representative desire to dispose of them he must distribute each class of the securities equally among the dif-

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ferent beneficiaries. Giving each beneficiary a different class might do a great injustice, as no one can tell just how the "no value" securities may pan out some day.

559. **Proxies.** An executor, administrator and/or trustee should not sign proxies indiscriminately.

A proxy for a meeting of stockholders of a corporation may be signed by him, but his power to assent to any important measures with regard to subscription, scaling or reduction of estate holdings, and matters of this kind which may be passed on at such a meeting, is in some jurisdictions limited. Hence the representative should be careful not to commit himself to a policy which he has no power to carry out before receiving the sanction of the court.

560. **Taxes.** Taxes which are most commonly met with in the handling of an estate consist of—

1. City, State and county on realty.
2. City, State and county on personalty.
3. State inheritance tax.
4. Collateral inheritance tax.
5. State tax on transfer of stocks.
6. In some States, the personal representative must pay to the State a tax based on his commission for administering the estate. This tax is usually deducted from his commission.

561. **Property of the Estate Should Be Insured.** The executor or administrator should see that the property under his care is adequately covered by insurance, and due attention should be paid by him to clauses of "non-occupancy," "additional insurance," "wind storm" and "lightning" when insuring the property.

562. **Transactions Foreign to the Estate.** Transactions not provided for by the will, or unknown to and not sanctioned by the court should not be carried on with estate or trust funds.

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An example of such a transaction is where the heirs or residuary legatees decide on an annuity for a certain person not mentioned in the will. Such an annuity should be paid by them directly, and not through the estate. The reason for this is that any money used for such a purpose is not drawing interest whereas if same were retained it might be put out at interest or invested.

563. **Vouchers.** Vouchers in the sense used here are receipted bills for the expenditures of the executor, administrator or trustee.

The court requires them to substantiate the report of expenditures. The most convenient method is to number them consecutively. Where two bank accounts are kept check numbers cannot be used on account of duplication. Entries in the cash-book should show voucher numbers in their consecutive order.

564. **How to Sign Checks for an Estate.** The primary object of signing a check is to get the money out of bank and therefore ordinarily any signature showing the capacity in which the signer is acting and which the bank will know, will do. The best form to use is

Estate of George White.
John White, Executor.

As to how many of more than one representative should sign a check depends upon what the bank you are dealing with will honor and how much a representative is willing to place confidence in his co-representative. The highest measure of security would require all representatives to sign, but where active men represent an active estate this is often more cumbersome than practical.

565. **Erasures.** The proper way to "erase" in books of accounts is to rule a line through the error and then to place the correct figures desired above the item. Erasures, by obliteration, in books and on negotiable paper have a bad effect upon their general authenticity.

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566. **Closing the Books.** As each report is made to the court the books, or the accounts concerned in such report should be closed as of the date the report is made, and items included therein should not be included in subsequent reports.

567. **Reports and Accounts of Guardians and Lunatic Committees.** The reports and accounts of guardians and lunatic committees are not taken up in detail in this book because in form they are the same as those used by the trustee. The rules given to cover that set of accounts will also serve in their case.

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GENERAL INDEX.

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